

# **EXHIBITS**

Proceed	ing/Serial No: 91160810
Filed:	11-13-06
Title:	Testimony Deposition of
	James C. Brown
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> November 13, 2006 VIA HAND DELIVERY

TTAB

Commissioner for Trademarks P.O. Box 1451 Alexandria, VA 22313-1451

> Testimony Deposition of James C. Brown Re:

> > The Mentholatum Company v. Therox, Inc.

Opposition No. 91/160,810 Mark Opposed: OXIUM

Our Ref.: 201091

Dear Sir:

Pursuant to Trademark Rule No. 2.125, enclosed herewith is the testimony deposition of James C. Brown taken on October 11, 2006 on behalf of Opposer, The Mentholatum Corporation.

The Board will note that the testimony deposition of James C. Brown consists of a nonconfidential portion of the deposition together with Exhibits 1-2, and 4-11, and further, consists of a confidential portion together with Exhibits 3 and 12-14. The confidential portion of the Brown deposition, together with Exhibits 3 and 12-14, are submitted in a separate envelope clearly marked "Trade Secret/Commercially Sensitive". The Trademark Trial and Appeal Board is respectfully requested to treat the confidential portion of the transcript and Exhibits 3 and 12-14 as a confidential document and exhibits, and the Board is requested to keep this confidential portion separate and apart from the non-confidential transcript portion so that the confidential portion is kept under seal and is only available to the people described in the entered Protective Order as having access to material designated "Trade Secret/Commercially Sensitive".

Respectfully submitted,

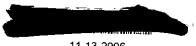
By:

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LAL/kcl



11-13-2006



Commissioner for Trademarks Testimony Deposition of James C. Brown November 13, 2006 Page 2 of 3

Enclosures: Non-Confidential Testimony Deposition of James C. Brown

(w/Exhibits 1-2 and 4-11)

Confidential Portion of Deposition of James C. Brown

(w/Exhibits 3 and 12-14 to be kept confidential and separate and apart from non-

confidential testimony deposition transcript)



## **CERTIFICATE OF SERVICE**

I, Leigh Ann Lindquist, Esquire, hereby certify that on this 13<sup>th</sup> day of November, 2006, a true and correct copy of the Errata Sheets for the **DEPOSITION OF JAMES C. BROWN** were sent via First Class U.S. Mail, postage prepaid to:

Tawnya R. Wojciechowski, Esq. TRW Law Group 19990 MacArthur Boulevard, Suite 1150 Irvine, CA 92612

Applicant's counsel has copies of the Brown transcripts and exhibits. Accordingly, no copies of the transcripts and exhibits are being forwarded to Applicant's counsel.

Leigh Ann Lindquist

A00866B		11/02/20	11/02/2006			
LETTER T	O DEPOSITION	OFFICER-ERRATA SI	HEET			
DEPOSITI	ON OF:	JAMES	CORBET BROWN			
DATE OF	DEPOSITION:	OCTOE	SER 11, 2006			
CASE:		THE M	THE MENTHOLATUM COMPANY VS. THEROX, INC.			
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EXECUTED this	_day of
at PMSP/A~~	(State)
(Deponent)	

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## - SIGNATURE/ERRATA PAGE -

I, JAMIS BROWN, do hereby
certify that I have read the foregoing pages,
, and that the same is a correct
transcription of the answers given by me to the
questions therein propounded, except for the
corrections or changes in the form or substance, if
any, noted on the attached errata sheet.
SIGNATURE: James M. DATE: 11/8/00
SUBSCRIBED AND SWORN to before me this the
, day of, 20
Notary Public

# LETTER TO DEPOSITION OFFICER-ERRATA SHEET

DEPOSITION OF: JAMES CORBET BROWN-CONFIDENTIAL						
DATE OF	DEPOSITION:	ΓΙΟΝ: OCTOBER 11, 2006				
CASE: THE MENTHOLATUM COMPANY VS. THEROX,					,	
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## - SIGNATURE/ERRATA PAGE -

I, JAMCS BROWN, do hereby
certify that I have read the foregoing pages,
, and that the same is a correct
transcription of the answers given by me to the
questions therein propounded, except for the
corrections or changes in the form or substance, if
any, noted on the attached errata sheet.
SIGNATURE: Acros 07 DATE: 11/8/08
SUBSCRIBED AND SWORN to before me this the day of, 20
Notary Public

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE 1 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD 2 CERTIFIED COPY 3 4 THE MENTHOLATUM COMPANY, Opposition No. 5 Opposer, : 91/160,810 6 -VS-7 THEROX, INC., Applicant. 8 9 10 DEPOSITION OF: JAMES CORBET BROWN 11 PARSIPPANY, NEW JERSEY OCTOBER 11, 2006 12 13 14 15 16 17 18 19 20 ATKINSON-BAKER, INC. COURT REPORTERS 21 500 NORTH BRAND BOULEVARD, THIRD FLOOR 22 GLENDALE, CALIFORNIA 91203-4725 800-288-3376 23 REPORTED BY: ANNA MARIA FASCIANO LICENSE NO. 30X100200300 24 FILE NO.: A00866B 25

Oral deposition was taken on behalf of the Opposer, at the offices of GlaxoSmithKline, 1500
Littleton Road, Parsippany, New Jersey, before ANNA MARIA FASCIANO, License No. 30X100200300, a Notary Public and Certified Shorthand Reporter of the State of New Jersey and Commissioner of Deeds of the Commonwealth of Pennsylvania, on October 11, 2006, commencing at 1:14 p.m.

ATKINSON-BAKER COURT REPORTERS 800-288-3376

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25	800-288-3376

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JAMES CORBET BROWN, HAVING BEEN DULY SWORN ACCORDING TO LAW, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

MS. LINDQUIST: Okay. And when we're getting started here, I just want to note that we're here taking the testimony deposition of Jim Brown on behalf of the Mentholatum Company which is the Opposer in Opposition Number 91/160,810. And Therox, Inc. is the Applicant.

There's also a stipulated protective order in effect and we will be talking about some confidential matters today. Those confidential matters should be separated from the main part of the transcript and some of the confidential matters will also be exhibits that are labeled confidential and those exhibits should be separated from the main part of the transcript as well.

And now I'll start with Jim.

DIRECT EXAMINATION

BY MS. LINDOUIST:

Q. Could you state your name, address and employer for the record, please?

James Corbet Brown. 1 Α. 2 And your employer? Ο. 3 GlaxoSmithKline. Α. And what is Glaxo's address? 4 0. 5 1500 Littleton, L-I-T-T-L-E-T-O-N, Α. 6 Road, Parsippany, New Jersey. 7 Do you need the zip code? Nope, that's good. 8 Ο. 9 Okay. I didn't give you my -- did you Α. 10 want my home address or just my business address? 11 Business address is fine. Q. 12 Α. Okay. 13 And then I think we'll mark Exhibit 1 Q. 14 now. 15 And, Jim, can you identify what Exhibit 16 1 is? 17 Α. Yes. It references the deposition I'll 18 be giving today, and I guess the case between the two 19 parties involved. 20 Okay. Now, we're going to talk about 21 your educational background a little bit. Can you 22 take us from the time that you graduated from college 23 forward to the present in just referencing your 24 educational background, providing any information 25 about degrees and also the years that you attended

any educational programs?

A. Sure. I graduated from Boston College in 1986. I then went to work for several years before I started business school. And I graduated business school from Emory University with an MBA in 1993. And since then I've been, you know, full time employed with no further degrees.

- Q. When you graduated from Boston College, what was your degree in?
  - A. Liberal arts with a major in economics.
- Q. Okay. Did you have a specialty in your MBA?
- A. We didn't have -- what you might call, you know, documented specialties, but you would say my specialty was marketing.
- Q. Okay. So between graduating from college and attending business school, where did you work?
- A. My first employer was Young & Rubicam Advertising in New York City from 1986 until 1989.

  And then I worked for Lintas Advertising in New York City from 1989 until 1991, at which time I entered a two-year MBA program at Emory University. After graduating in 1993 from Emory University, I worked for a company called Bulgari, B-U-L-G-A-R-I, the

Bulgari Corporation of America. And I worked there from 1993 until the year 2000. And they were located in New York City.

Q. What were your job responsibilities there?

- A. I was responsible for all elements of the brand communications. So the advertising, promotional materials, in-store communication. We had a catalog that I was responsible for. All of your direct mail efforts. So you might say all communication that supported the Bulgari brand.
  - Q. And what was your job title?
- A. I was a marketing coordinator, then a marketing manager and then a brand manager.
  - Q. And where did you work after that?
- A. After that I joined the Block Drug

  Company in February of 2000 as an associate brand

  manager. I'm sorry, as an assistant brand manager.

  And then six months after that, I was promoted to be associate brand manager. So that would have been around September of 2000.
  - O. Uh-humm.
- A. And then at the end of that year, at the beginning of 2001, the Block Drug Company was purchased by GlaxoSmithKline. So I remained in my

- job but my new employer became GlaxoSmithKline at the beginning of 2001, and I've been with this company ever since.
  - Q. When you were with the Block Drug Company, were you in charge of a specific brand or brands?

- A. Yes. I worked specifically on the PoliGrip Denture Adhesive brand which is still a brand within GlaxoSmithKline today.
- Q. And when Block Drugs was purchased by GlaxoSmithKline, did you continue to work on the PoliGrip brand?
- A. Yes, I did. I continued to work on that brand for several more months at which time I was promoted to be a brand manager on the Contac brand, Contac Cold Medicine brand.
- Q. And when was that? When did you become the brand manager?
- A. I don't have the exact dates. But my recollection is it was around May of 2001.
- Q. Okay. Were you responsible for any other brands after that, the Contac brand was assigned to you?
- A. Really just Contac. And then, and I'm trying to recall the dates, it was around September

of 2003 I was assigned to work on the Oxy brand.

- Q. And what was your title when you were assigned to the Oxy brand?
  - A. Brand manager.

- Q. And you were the brand manager for the Oxy product from what time period? For what time period?
- A. From around September of 2003 until the brand was sold to Mentholatum which was, I believe, around November of 2004.
- Q. Okay. And what were your responsibilities as the brand manager for Oxy?
- A. My responsibilities, I had financial responsibilities which was to manage the business, to deliver company objectives on sales and profit. But the biggest part of that was managing the brand communication which was any form of advertising, promotions, website communication, anything that might help influence the teenage consumer that we were targeting to purchase Oxy.
  - Q. Okay. What is your job title now?
- A. I am brand manager on the -- on four brands here with GlaxoSmithKline. The Beano brand; it's an anti-gas brand. A brand call Phazyme, which is another anti-gas brand. And then two antacid

brands called Tagamet and Gaviscon.

- Q. Do you know who currently owns the Oxy brand?
  - A. Mentholatum.
  - Q. And how do you know that?
- A. I know that because I was involved in the project to sell the brand. And just by virtue of the documentation I've been sent today, it's clear that Mentholatum still is the owner of Oxy.
- Q. What was your involvement in helping to prepare the Oxy brand to be sold to Mentholatum?

  What exactly did you do?
- A. To prepare history on the brand, whether it be financial or brand communication that would help prospective buyers have a better understanding of the Oxy business.
  - Q. So you reviewed documents?
- A. Sure. Reviewed and assembled documents and also prepared sort of summary documents that help someone who is trying to understand the business better understand sort of what we were doing to help drive the business.
- Q. So during this review, were some of the documents that you reviewed documents that were created and developed before you were the brand

manager for Oxy?

- A. Yes. Some of them.
- Q. So is it fair to say that as brand manager and then also in your capacity as helping to prepare the brand to be acquired by Mentholatum, that you had a number of historical documents for Oxy?
  - A. Yes. That's correct.
- Q. And those documents were kept in the normal course of business for GlaxoSmithKline?
  - A. Yes.
- Q. Based on your knowledge, was there ever a time that GlaxoSmithKline or any of its predecessors in interest had a gap in the use of the Oxy brand?
- A. No. I don't believe there was from its inception until its sale to Mentholatum, there was no gap.
- Q. And do you know when the first Oxy product, branded product was sold?
- A. I believe it was in the early 1970s.

  But I'm not sure if it goes back to the late '60s.
- Q. Okay. So based on your knowledge, is it fair to say that Oxy has been continuously used by GlaxoSmithKline and its predecessors in interest?
  - A. Yes.

- Q. When you were the brand manager for Oxy, what was the geographical scope of the sale of the product?
- A. It was -- it was sold throughout the United States and in Canada.
  - Q. Okay. Was it sold in all 50 states?
- A. I believe so. There were no restrictions, so I would anticipate that it would -- there were sales in all 50 states.
- Q. Was the product sold anywhere besides Canada, outside of the U.S.?
- A. It was sold in some international markets. I don't recall exactly which ones, but I know that there were international sales of the Oxy brand.
  - Q. Okay.
- A. Certainly, you know, in the U.K. and other parts of Europe.
- Q. Can you describe what products were sold under the Oxy mark when the Oxy brand was held by GlaxoSmithKline?
- A. It's the -- it was the full range of Oxy products which was a line of treatment creams and pads, treatment pads.
  - Q. Okay. Can we please mark Exhibit 2?

	Okay.	And	this	should	bе	а	six-page
document?							

- A. Yes.
- Q. Okay. Looking at the first page, can you identify what is pictured here moving from left to right?
- A. On the left you see a picture of the Oxy treatment pads that are called daily cleansing pads. Next you see the wash, the acne wash product. Then you see another variant of Oxy pad. And then you see a visual of the Oxy treatment cream.
- Q. Okay. What were these products used for?
- A. They were used for the treatment and prevention of acne.
- Q. The first page of this exhibit, each of these products appears to have the word "maximum" on them. Did SmithKline Beecham sell Oxy products that were not maximum strength?
- A. Yes. There were also regular and sensitive strengths in the treatment creams which relates to the amount of benzoyl peroxide contained in the product.
  - Q. So let's move to page two of Exhibit 2.
  - A. Okay.

I don't know if your copy is clear 1 Q. 2 enough, but can you identify what this product is? 3 Α. Yes. That's the Oxy daily cleansing It's the same product you saw on the prior 4 5 page, it's just a different count size. 6 Okay. And then the third page of the ο. 7 exhibit? 8 Α. The third page is another visual of the 9 daily cleansing pads. And that has a different strength 10 Ο. 11 level? 12 That's the sensitive skin variant. Α. 13 Ο. Okay. 14 Which probably, I don't see it here, Α. 15 but probably has a different level of salicylic acid. 16 Ο. Okay. And then the fourth page of 17 Exhibit 2, what is that? 18 That is another picture of the Α. cleansing pads, but it is the blackhead variant. 19 20 Was the blackhead variant product 21 available in the wash or the cream? 22 It was only available in the daily Α. 23 cleansing pads. 24 And what's the difference between all 25 these different types of cleansing pads, the maximum, the sensitive, the blackhead?

A. In the pads, the difference in -- the pads have an active ingredient called salicylic acid and the level of salicylic acid determines whether it's maximum or sensitive.

The blackhead clearing pad, the difference there is really more brand positioning.

It's the same active ingredient but it's specifically positioned to teens who have a problem with blackheads.

- Q. Okay. And then the last two pages of Exhibit 2, can you identify what that is?
- A. Yes. This -- the second -- the last two pages?
  - O. Yes.
- A. The second to last page is a visual of the package of vanishing treatment which is the -- the treatment products is the -- is a product which is based on the active ingredient benzoyl peroxide. It came in a carton, what you see here, and it's the vanishing treatment. So it has a different sort of -- it looks different on your skin than the regular treatment product does.

And then the next page looks like it's the back of the carton which contains, required FDA,

1 | sort of consumer information on the back.

Q. Okay. So the Oxy pads, they were sold in different size...

A. Yes.

- Q. Okay. What were the sizes that they were sold in?
- A. They were sold in 90 count which is 90 pads, and 55 count.
- Q. Okay. And what about the Oxy wash, was that sold in different container sizes?
- A. No. That was actually just sold in one size.
- Q. Okay. And then the vanishing cream, did that come in different sizes?
  - A. I believe that just came in one size.
- Q. Okay. The products that we see on the first page of Exhibit 2 which actually is Bates labeled Opposers 00024, were these products in the marketplace or available for sale when Oxy brand was sold to Mentholatum?
  - A. Yes.
- Q. Okay. Where were all these various Oxy products sold; what types of stores?
- A. They were sold in your typical drug stores like CVS, Rite Aid, Walgreens; your typical

1 mass retailers, like Walmart, K-Mart, Target. 2 Q. Okay. 3 And your major food chains, like Α. Safeway, Krogers, chains like that. 4 5 Were they sold in any other types of Q . 6 stores? 7 Those really were the -- that would Α. 8 really be it. It's possible there were some sales in 9 what we call, you know, smaller sort of convenience 10 stores. I don't recall if we had convenience store 11 sales however. 12 Q. Were there any sales on the internet? 13 Α. No. 14 Q. What is dropping down through here; is 15 that somebody's Blackberry going crazy? 16 I'm sorry, it's, on our floor here, 17 they're doing some construction. Is it -- is this 18 distracting the discussion? 19 Q. I'm okay. 20 MS. LINDQUIST: Can you hear, Tawnya? 21 MS. WOJCIECHOWSKI: It's okay. 22 THE WITNESS: If it becomes a problem, 23 we can move to another location. 24 BY MS. LINDQUIST: 25 Q. Now, we're going to talk about the Oxy

customer. Who was the Oxy customer when Glaxo held the Oxy brand?

- A. When you say customer, I'm not sure what you mean because customer could be our retail customers like Walmart and K-Mart because we actually sell the product to them, or are you talking about our final consumer that purchases the product in the store?
- Q. Yeah, the ultimate user of your product, who would that be?
- A. Well, the product was appropriate for anyone who needed the benefit of acne treatment. But the product was marketed primarily to the teenage population.
- Q. When you say the teenage population, what age group are you referencing?
- A. We're talking, you know, 14 to 18 sort of, in that high school age range.
- Q. Okay. Do you know if the Oxy products were purchased by people that were outside of this age range?
- A. Yes. They were purchased by a wide range of age groups, including, you know, adults, you know, ranging from 25 to, you know, even 65.

MS. LINDQUIST: Okay. I think now

we're going to move to a confidential part of the record and we're going to mark Exhibit 3.

And I think Tawnya we're going to talk about numbers now.

 $\label{eq:MS.WOJCIECHOWSKI: In-house counsel is} \\ leaving the room.$ 

MS. LINDQUIST: Okay.

\* \* \* \* \*

(Whereupon the following section was deemed trade secret commercially sensitive and is contained under separate cover.)

\* \* \* \* \*

MS. LINDQUIST: Everybody back.

MS. WOJCIECHOWSKI: Yep.

BY MS. LINDQUIST:

- Q. When you were the brand manager for the Oxy brand, what sort of advertisements did you place?
- A. We placed TV -- primarily TV advertisements. We also had advertising in some print magazines and other locations like in-store advertising. There was some movie theater advertising. And it was all around the same sort of advertising campaign which was an animated campaign that is actually featured on the DVD that's one of the exhibits.
- Q. Okay. Can you name some of the print magazines that advertisements for Oxy appeared in?
- A. I'm not referring to an exhibit, mind you, but it was magazines like Teen People, Sports Illustrated for teens.
  - Q. Okay.
  - A. Those are two of the bigger ones.
  - Q. Did you have any internet promotions?
- A. We had a website, a pretty extensive website for the brand and we may have had certain -- some advertising on the internet.
  - O. What was the domain name for that

website? 1 2 Α. oxyoxygen.com. Did you do any sampling of the product? 3 Q. No, we really didn't. 4 Α. Did you place any coupon 5 ο. advertisements? 6 Yes, we did do coupon advertisements, 7 primarily through coupon drops in the Sunday circular 8 newspapers. 9 How often would you do those? 10 Ο. Usually two to three times per year. 11 Α. And what would be the circulation of 12 Ο. 13 the newspapers that you placed these coupons in? 14 Α. It ranged, but it was generally -- it was a national effort and the circulation ranged from 15 30 to 40 million. 16 Did you have a direct sales force when 17 ο. you were the brand manager for Oxy? 18 19 Α. Yes. And how did that direct sales force 20 Q. 21 work? They called on certain -- on all of our 22 Α. customers and they worked with the buyers at those 23 customers and those buyers agreed to continue to 24 place Oxy at shelf, but they also placed orders for 25

- sales at periodic times of the year. And the orders
  were shipped out of GlaxoSmithKline distribution
  centers to those customers.

  Q. So the sales force, their only role was
  to sell the Oxy brand?
  - A. That's correct.

- Q. Did they provide any support to the customers, the grocery stores, the drug stores and that like after the product had been sold?
- A. Not much. Their primary role was to continue their relationship with the buyers and make sure they got their orders as requested and make sure the buyers understood what the marketing was behind the Oxy brand so the buyer understood that, you know, these teens were going to continue to be aware of Oxy.
- Q. Can we mark what is Exhibit 4? It's a DVD.
- A. Yes, I've already placed the DVD in my computer.

And do you have a computer there handy?

- Q. Okay. Have you reviewed this DVD before?
  - A. Yes.
  - Q. And what does the DVD show?

- Q. And where would these types of advertisements be placed?
- A. In a range of television programs, all heavily viewed by a teenage audience. So you'd see, and I don't know the exact programs, but ranging from MTV to Nickelodeon to a range of Saturday morning-type programming. Any type of programming that would typically be viewed by a teenager.
- Q. And older advertisements, would they have been on network TV?
- A. When you say older advertisements, you mean advertisements that go back years ago?
- Q. Right. That would have been there prior to your time as the Oxy brand manager?
  - A. Yes.

MS. WOJCIECHOWSKI: Objection. Lack of personal knowledge unless there's some foundation.

THE WITNESS: I mean, I know just from my knowledge in the industry that up until certainly cable really became more prevalent, this type of advertising would have been on network TV.

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- Α. Okay.
- Can you identify what this is? Q.
- Α. Yes. This is a photograph that was taken of a shelf at a retailer that shows the Oxy product and what appears to be a price discount offer that is shown there.
- Q. And this is a two-page exhibit. What's on the second page?
- It's another photograph of the shelf where Oxy is placed, but it also includes an advertisement that was placed on shelf that features the Oxy product.
- 0. The advertisement that you referenced on page two, is this representative of the type of advertisements that might have been used with the Oxy product on the shelf?
- Yes. This item here, it's something called shelf talk. It's a description of the type of advertisement that one can purchase at shelf.
- Q. And where would these shelf talks be placed, what type of stores?
- Typically in food and drug stores. Α.
- Most mass stores do not accept them.
- Okay. Would you consider this a point Q. of purchase display?

- 3 .

- ΤŲ

- A. Yes. We would consider it point of purchase advertising.
- Q. Did you do use any other point of purchase advertising besides the example we see in Exhibit 6?
- A. At times there were displays that actually were sort of advertising, but a display, a cardboard display that includes product. We would consider those in-store advertising as well. They were featured in certain accounts.
- Q. Okay. Let's mark Exhibit 7 which is a four-page document.
  - A. Okay.
- Q. Can you identify the first page of this document?
- A. Yes. It shows what we call a screen grab from the website featuring Oxy's 2004 internet contest.
- Q. And the picture that's on the left-hand side, is that backwards or something?
  - A. Yeah, it does appear to be backwards.
  - Q. Okay.
  - A. I'm not sure why.
- Q. On the right-hand side, there's the word IMVironments, what does that mean?

A. That's instant messaging which is something that's extremely popular with teenagers.

It's a form of communication on the internet.

- Q. And what does that mean, utilize Yahoo IMVironments?
- A. Yahoo has a feature where teens can actually, it's hard to describe, but almost choose wallpaper for the background of their instant messages. So when one teen instant messages another, they can have sort of a nice colorful background or cartoon-ish figure and Yahoo offers that as a service.
- Q. So did GlaxoSmithKline provide

  IMVironments that were somehow related to the Oxy
  brand?
  - A. Yes.
  - Q. And what were those?
- A. Well, as part of a media buy for the Oxy brand, you could negotiate with Yahoo to pay for the right to allow teens to use this sort of wallpaper, if you want to call it that, together with instant messages that they would send to their friends.
- Q. So what would an example of one of the Oxy wallpapers be?

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- I don't see it here, but it's hard to Α. say. There were a range of choices teens would have. If you go into Yahoo, there's a range of visuals that you can use to essentially personalize your message. View it almost like personalized stationery.
  - 0. Okay.
- But there's no way to tell from here exactly what they look like.
- Would they have had the Oxy mark on Q. them?
  - Α. Oh, yes.
  - So what is Oxy's 2004 internet contest? Q.
- The contest shown here was a "Do you Α. have the face of Oxy" where teens would actually submit drawings. They actually went on-line and submitted drawings. That was their sort of proposal for what would be a new character for Oxy. Because Oxy had an animated campaign on TV that featured certain characters and the chance here was for teens to submit their recommendations for what a face might be.
- And the IMVironments, this was part of Q. that contest?
- It was a way -- it was one of the ways of communicating to teens that this contest was

happening.

- Q. Okay. Underneath utilize Yahoo IMVironments it says, generated 300,000 clicks to oxyoxygen.com; what does that mean, the clicks?
- A. That means that because of this marketing, 300,000 -- there were 300,000 occasions where people clicked onto the oxyoxygen website.
  - Q. Is that from Yahoo?
- A. I don't recall if it was from Yahoo.

  My understanding from looking at this is that it was from Yahoo.
- Q. Okay. And then the next line, the Oxy

  IM Skin had almost seven million users. What is
  that?
- A. That is a little bit complicated. IM is instant messaging. I don't recall exactly what a skin was. But it would mean that, you know, almost seven million teens were using this instant messaging skin. I just don't recall what the distinction of a skin is.
- Q. Would these instant messages somehow have Oxy in them, the mark?
  - A. Yes, they would always have the mark.
- Q. Okay. What is the million guests downloading the Oxy IM Skin, what does that mean?

- A. That means guest is just a, you know, a user. And it just means that you could download this instant message to your computer to use it as you wish.
- Q. Okay. And what about the number underneath that where they're talking about impressions; what is that referring to?
- A. An impression is basically an individual seeing something. It's a set of eyeballs. So it means that 843,000,000 people saw this.

MS. WOJCIECHOWSKI: Objection. Lacks foundation.

#### BY MS. LINDQUIST:

- Q. Where do these numbers come from? How are they generated?
- able to track, you know, how many people use these various forms of communication. And Yahoo, again, I'm not recalling exactly, this was a couple of years ago, but Yahoo likely indicated through this program how many people saw these IMs and IM Skins and they would have anticipated that it was 843,000,000 people.

MS. WOJCIECHOWSKI: Objection. Speculative.

1 BY MS. LINDQUIST: So in your contract with Yahoo, they 2 Q. would provide you with reports regarding use of your 3 IMVironments? 4 5 Α. Yes. 6 Do you know how often you would receive Q. 7 these reports? 8 That, I don't recall. Α. But you did receive them from Yahoo? 9 Q. 10 Α. Yes. 11 Q. You received reports from Yahoo 12 regarding the IMVironments contracts that you had 13 with them? 14 Α. Yes. 15 Q. How long did this program run? This specific program ran for about six 16 Α. 17 months. Typically at the beginning of the summertime 18 and then through the -- into the beginning of the 19 school season. 20 Okay. On this page it also says, ο. 21 provide more of an instant win contest versus 22 sweepstakes. What's that mean? 23 Α. What it means is that sweepstakes, you 24 know, sweepstakes programs require people to enter 25 and then eventually they find out if they were the

lucky winner. Instant win simply means that you have a chance to go on the website and get instant gratification of potentially winning.

- Q. Did GlaxoSmithKline offer instant win contests and sweepstakes at different times when they held the Oxy brand?
  - A. Yes.

- Q. Did GlaxoSmithKline offer these instant win contests and sweepstakes at different times when they had the Oxy brand?
  - A. Yes.
- Q. All right. Let's move to the second page of this exhibit.
  - A. Okay.
  - O. Can you identify what this page is?
- A. Yes. This shows what was communicated in movie theaters. It was part of the communication plan for the new face of Oxy program.
- Q. So when you say this was used in theaters, what do you mean? What kind of theater?
- A. In typical movie theaters that people go to, you'll -- I think many of us have probably seen advertising in the movie theaters, and that's what we mean here. This was an advertisement that was put up on the full movie screen to support this

program.

- Q. How long would this in-theater slide have been used?
- A. It was used throughout the program.

  Are you asking how long did it stay up on the screen?
  - Q. No, no, no. Was it used for a month?
- A. This was used, I don't recall the exact timing, but likely for two to three months during the summertime.
- Q. And you know for a fact that these in-theater advertisements actually were in use?
  - A. Yes.
- Q. Let's move to the third page. Can you identify what this is?
- A. Yes. These are, again, copies or pictures of communication that was part of the same program. But these are for what we call FSIs, freestanding inserts.
  - Q. And where would these have been placed?
- A. These were placed in national FSI drops which are coupon drops in Sunday newspapers throughout the country.
- Q. This number here that says 30 MM circ, what's that mean?
  - A. That means that this -- you see above

it August 10th, 2004, that means that on August 10th, 1 2004, there was an Oxy FSI coupon drop and it was 2 dropped in newspapers that had a total circulation of 3 30 million. 4 MS. WOJCIECHOWSKI: Objection. Lacks 5 6 foundation. BY MS. LINDQUIST: 7 Did you -- were you involved in the 8 Q. 9 placement of this FSI? This -- the actual placement of this 10 Α. was done before I came on the business. 11 MS. WOJCIECHOWSKI: And lack of 12 13 personal knowledge. 14 BY MS. LINDQUIST: 15 And how are you familiar with this Q. document? 16 Well, I've seen this before. And when 17 Α. I became brand manager I reference or reviewed 18 documents for at least a couple of years prior to my 19 taking on the business so I have an understanding of 20 the types of programs that prior brand managers had 21 22 conducted. 23 Is this representative of the type of 0. 24 advertising that was done in the past and which you 25 were involved in?

- A. Yes. Every year we always placed an FSI in the summertime to support our summer promotion to teens, and that's what this is here.
- Q. And when you placed those ads, how would you know what the circulation was supposed to be?
- A. The ads are placed with a company called News America. And each time we'd place an ad, we'd sign a contract. And in that contract the circulation is stipulated.
- Q. Okay. And now let's move to the fourth page.
  - A. Okay.
  - Q. Can you identify what this page is?
- A. Yes. These are pictures of displays that we had for the Oxy brand. We actually are calling them here special packs.
  - Q. And where would these have been used?
- A. In the kinds of retail stores I indicated earlier; food stores, drug stores, mass retailer stores.
- Q. And how long would this special pack or special packs, how long would they have been available in the marketplace; meaning would it be one month or a longer period of time or a shorter period

of time?

- A. Typically for three to four months.
- Q. These special packs, does that mean that they were all sold as one packaging or they just happen to be advertised together?
  - A. They were sold as one unit.
- Q. Okay. Let's move to what we'll mark as Exhibit 8.
  - A. Okay.
- Q. And this is a three-page document. Can you identify what the first page of this document is?
- A. Yes. It says 2004 Back to School Oxy Tunes. It was the 2004 summer promotion for Oxy.
- Q. It looks like there are four pictures on here, or photographs. Can you identify what each of these four items is?
- A. In the upper left, you see FSI, August 8th, 2004. That was the national newspaper FSI portion of the program. Then in the middle, you see shelf talk, July and August 2004. That's an advertisement that appeared at shelf next to the Oxy brand at shelf in retailers. Then you see, on the right you see a display for the Oxy brand which was a cardboard display in-store that housed the Oxy product and also had room to place sort of

advertising for Oxy on the cardboard. And then on the bottom left, you see a picture of what is actually two Oxy pads that were sold as what's called a BOGO, which means buy one get one free.

- Q. Okay.
- A. So it was sold as two products for the price of one.
- Q. So this 2004 Back to School Oxy Tunes program, what exactly was that?
- A. That was a promotion where we gave people the chance to go to the music video awards by entering on-line and also there was the chance to get -- to download music from the internet.
- Q. When you say the internet, do you mean the website at the oxygenoxy.com [sic] domain name?
- A. Yes. You entered by going there, but actually the tunes came from one of the internet music providers.
- Q. But someone would enter the contest to win a trip to the music awards at the Oxy website?
  - A. Yes.
- Q. Okay. At the top of this it says, fully integrated program with strong marketing in-store and trade support. What is the in-store and trade support mean?

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- A. Well, in-store is two of the pictures here are in-store. The shelf talk that you see there in the middle.
  - O. Okay.
- A. That's considered in-store. The picture on the right which is the display that houses Oxy product, that's considered in-store.

By trade support we mean retailers providing additional communication on the program, things like if you see in -- when you go into a supermarket, you see those circulars where you see price discounts, that's the type of trade support we're talking about.

- Q. Okay. Then if we move to the second page of the exhibit, can you identify what that is?
- A. Yes. That is a visual of the FSI that you see on the first -- that you've seen on the first page.
- Q. In order to enter this contest that you had for the music awards, did someone have to purchase an Oxy product?
  - A. No.
- Q. In one of the stars it says there were 5,000 other prizes, what does that mean?
  - A. There were a range of smaller prizes

that were offered as part of the promotion.

- Q. Do you have any examples?
- A. To be honest, I don't remember what those smaller prizes were.
- Q. Okay. And then moving onto the third page, can you identify that?
- A. That is a picture of the same sort of visual that we had in the FSI, but I'm not recalling where this appeared.
- Q. Did you have any print ads that used this -- what's seen on page three of this exhibit, did this appear in any print advertising?
- A. No, it didn't. As I said, we've had print advertisements for Oxy, but we didn't advertise this promotion in print.
- Q. Okay. The music awards that you were offering a free trip to, is that the MTV awards?
- A. It was, although we could not say so in our marketing.
  - Q. Okay.
- A. But that is what it was. That would have required a separate arrangement with the MTV video awards.
- Q. Okay. And now we'll mark what we have as Exhibit 9. Can you identify what this is?

- A. This is a picture of the main, sort of what we call the home page on the website for a loyalty program that we offered.
  - Q. What's a loyalty program?

- A. It's a program that encourages Oxy users to buy more product by getting them involved in a loyalty program. Kind of like an airline frequent flyer program.
- Q. How long did you have the loyalty program?
- A. Oh, let's see, I'm trying to think. It was a program that was started during my time as brand manager, so it was not preexisting. So the program started up around May of 2004 and continued until we sold the brand to Mentholatum.
- Q. Okay. On this, I'm going to call it a screen shot, it says, get cool stuff from Oxy. What kind of cool stuff was available?
- A. The kinds of things that you see here.

  Downloads of music. Screen savers; you get the things that could appear on your computer screen.

  Movie tickets. Gossip available on-line. A range of things.
- Q. Okay. And then we'll move to what we've marked as Exhibit 10. Can you identify this

document?

A. Yes. These are pictures of print advertisements that ran for Oxy. At least the first page of this document is -- that's what it is.

4 5

Q. And where might an ad like this appear?

A. Magazines like Teen People, Sports

Illustrated for teens. There's a magazine called

Scholastic which goes directly to schools. Those are examples.

Q. And when you would do a print advertisement say in Teen People, would you run the ad one time a year or would you run it more than that?

A. Typically three to six times a year.

Q. And then the second page of this exhibit, can you identify what that is?

A. These visuals here are also of Oxy print. I'm trying to figure out here, it looks like two separate print ads from what I can tell.

Q. Okay. And then we'll mark Exhibit 11.

A. Okay.

Q. Can you identify what this exhibit which consists of three pages is?

A. This -- let me just turn the pages here. This is marketing communication for Oxy that

featured the characters in the TV campaign, these animated characters. But I can't tell exactly what type of advertisement this was. It looks like it might have been a consumer press kit.

- Q. What's a consumer press kit?
- A. As part of the marketing program, we also sent things to the press, for example, to people who write for Teen People or Sports Illustrated for kids so they were aware of Oxy. And they might write about it in their magazine.
- Q. How often would you send out these type of press kits that you mentioned?
  - A. Typically once a year.

\* \* \* \* \*

(Whereupon the following section was deemed trade secret commercially sensitive and is contained under separate cover.)

\* \* \* \* \*

1 BY MS. LINDQUIST: 2 Q. Did GlaxoSmithKline ever do market 3 research studies or focus groups for the Oxy product? 4 Α. Yes. 5 Q. And why were those done? 6 Α. They were done to get a better 7 understanding of our target consumers, to better 8 understand what teenagers wanted in an acne 9 medication. 10 And how often would you have conducted 0. 11 a focus group or market research study? 12 Oh, anywhere from, I'd say, three to 13 six times a year. 14 15 (Whereupon the following section was 16 deemed trade secret commercially sensitive and 17 is contained under separate cover.) 18 19 20 21 22 23 24 25

BY MS. LINDOUIST:

Q. What is -- what were the Oxy products that Glaxo sold? What sales price were they offered at?

- A. You mean at store?
- Q. Yeah, at the store.
- A. Oh, boy, I'm not recalling that very well. It was in the 3 to \$6 range.
- Q. Okay. And that would have been for all of the products that we earlier identified in Exhibit 6, they would have been in the 3 to \$6 range?
  - A. Yes.
- Q. Okay. And when you were the brand manager for Oxy, how would you describe the ultimate purchaser? Would you describe them as someone who did a lot of research before they came to purchase the Oxy product or would they go to the store and make an impulse purchase?
- A. We actually felt that our ultimate purchaser didn't necessarily do research, but that it wasn't an impulse purchase either. It was a consumer that was heavily influenced by all of the advertising that we did for the brand.
- Q. Okay. And when Oxy was part of GlaxoSmithKline, do you know what share of the acne

1	care product they had?
2	A. I knew better then. I don't remember
3	exactly. It's in the low double digits.
4	Q. Okay. And do you consider Oxy to be a
5	strong brand based on your education and work
6	experience as a marketing person?
7	A. Yes.
8	Q. Okay. I think that is all I have at
9	the moment.
10	MS. WOJCIECHOWSKI: Are we going to
11	take a break?
12	MS. LINDQUIST: Yeah, if you'd like to.
13	MS. WOJCIECHOWSKI: About ten minutes
14	or, I believe you said earlier that he needed
15	to take a break to do something work related?
16	MS. LINDQUIST: Yeah. Do you need to
17	do that, Jim?
18	* * * *
19	(Whereupon a discussion was held off
20	the record.)
21	* * * *
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23	MS. WOJCIECHOWSKI: Back on the record.
24	
25	CROSS EXAMINATION

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BY MS. WOJCIECHOWSKI:

Hi Jim, I'm Tawnya Wojciechowski, Q. counsel for the Therox.

> Α. Hi.

Just a couple of quick questions here. Q.

Do you know what the, if you know personally, what the original derivation of the use of the word or term "O-X-Y" was intended to reference by GlaxoSmithKline?

Α. I have an understanding in discussions with people that it referenced the fact that Oxy uses oxygen to help, you know, clean and relieve pimples.

Ο. Okay. Do you know what the active ingredient in the Oxy products is?

Α. Yes. Well, there's two actives. the treatment products, the ingredient is benzoyl peroxide. And in the pads, it's salicylic acid. And it's understood medically that benzoyl peroxide actually uses oxygen to help combat acne.

ο. Have you seen any medical studies that support that?

I don't recall if I have. My comment Α. is in discussion with, you know, staff here in the company.

> Q. Do you know when GlaxoSmithKline

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registered the URL for o-x-y-o-x-y-g-e-n.com?
1
                   No, I don't.
2
            Α.
                   Did it precede you?
3
            Ο.
                   Yes, it preceded me.
4
            Α.
                   Do you know if that was before?
5
            ο.
                   Are you looking for a number or are you
6
            Α.
     asking me a question? Before what?
7
                   Yeah, I'm looking for a date.
8
            Q.
9
                   Oh, okay.
            Α.
10
                   Do you know if that was before March
            Q.
11
     22nd of '02?
12
            Α.
                   I don't know for sure.
                  Okay. Would you consider your product
13
            Q.
14
     being sold in food chains, drug stores and the like
     to be a mass market consumer product?
15
16
            Α.
                   Yes.
                   I believe you referenced that you
17
            Q.
     previously worked for Bulgari?
18
19
            Α.
                   Yes.
                   Would you consider that to be a high
20
            Q.
     end luxury market product?
21
22
            Α.
                   Yes.
                    And do high end luxury market products
23
            Q.
     differ from mass market products?
24
            A. Yes. Yes, they do.
25
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1	Q. Do they differ in their retail
2	channels?
3	A. Yes.
4	Q. They differ in their pricing?
5	A. Yes.
6	Q. The high end luxury brands would
7	normally be found at a much higher pricing than mass
8	market products; is that true?
9	A. Yes.
10	Q. I believe that you testified earlier
11	that the full range of the Oxy products were priced
12	in the 3 to \$6 range?
13	A. Yes.
14	Q. Okay. Would any of the Oxy products
15	ever be priced at a \$30 and higher range?
16	A. No.
17	Q. I believe you discussed the channels of
18	distribution in these mass market products were food
19	chains and drug stores primarily?
20	A. Yes.
21	Q. Do you have any recollection of any
22	instance where Oxy products were offered to health
23	spas?
24	A. No, not that I recall.
25	Q. Beauty salons?

1	A. No.	
2	Q. Cos	metic counters at department stores?
3	A. No.	
4	Q. Wou	ald you consider any of the Oxy
5	products to be as	anti-aging product?
6	A. No	
7	Q. Wot	ald you consider any of the Oxy
8	products to be us	sed medically to heal burns?
9	A. No	•
10	Q. Suc	ch as sunburn?
11	A. No	
12	Q. I	oelieve you said earlier that your
13	target market for	r all of the Oxy products was the
14	teenage market;	is that correct?
15	A. Ye	S.
16	Q. Di	d any of the advertising that you
17	referenced in ou	r prior, or your prior discussion,
18	was any of that	advertising intended to target the 30
19	and older women	age group?
20	A. No	•
21		* * * * *
22	(Wher	eupon the following section was
23	deemed tr	ade secret commercially sensitive
24	and is co	ntained under separate cover.)
25		* * * * *

BY MS. WOJCIECHOWSKI: 1 Can you name each of the products that 2 0. you consider to be directly competitive to the Oxy 3 product? 4 You mean the brands? 5 6 Q. Yes. 7 Sure. Clearasil, Neutrogena, Clean & Α. Clear and Stridex. 8 And each of those are acne medications, 9 Ο. 10 correct? 11 Α. Yes. I'm sorry, I was waiting for a 12 0. 13 response. 14 Oh, I'm sorry. I said yes. I'm sorry. Α. 15 And would these products always be Q. 16 found grouped together within a specific location 17 within a retail store? 18 Α. Yes. And these would be -- strike that. 19 Q. 20 I think that covers it. 21 22 REDIRECT EXAMINATION 23 BY MS. LINDOUIST: Okay. I'm going to go back to Exhibit 24 13 and what is marked OPP00213. 25

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- Q. In the middle of the page, it says

  American Academy of Dermatology, I think that's what

  it's referencing, American Academy of Dermatology it

  says, Amer Academy of Derm?
  - A. Okay.
  - O. What is that in reference to?
- A. Again, I was not on the brand at this time. But to my knowledge, it would have referenced sponsorship spending against this group, this American Academy of Dermatologists.
  - Q. Do you know what that group is?
- A. I am not really -- I don't have a close working knowledge of that group.
  - Q. Okay.
- A. We didn't do anything with them on my time. \* \* \* \* \*

(Whereupon the following section was deemed trade secret commercially sensitive and is contained under separate cover.)

\* \* \* \* \*

1	MS. LINDQUIST: I think that may be
2	everything that we have.
3	Is there anything else you have?
4	MS. WOJCIECHOWSKI: No, I'm fine.
5	MS. LINDQUIST: Okay. So I guess we're
6	finished. And we'll go ahead and have Jim
7	Brown sign the transcript. And he doesn't
8	need to sign it in front of the court
9	reporter, if that's okay with you?
10	MS. WOJCIECHOWSKI: That's fine.
11	
12	* * * *
13	(Notice of deposition was received and
14	marked Exhibit 1 for Identification.)
15	* * * *
16	* * * *
17	(Document Bates stamped OPPOOO24,
18	w/attachments, was received and marked Exhibit
19	2 for Identification.)
20	* * * *
21	* * * *
22	(DVD was received and marked Exhibit 4
23	for Identification.)
24	* * * *
25	* * * *

1 .	(List of commercials was received and
2	marked Exhibit 5 for Identification.)
3	* * * *
4	* * * *
5	(Document Bates stamped OPPOO028,
6	w/attachment, was received and marked Exhibit
7	6 for Identification.)
8	* * * *
9	* * * *
10	(Document entitled Internet Contest was
11	received and marked Exhibit 7 for
12	Identification.)
13	* * * *
14	* * * *
15	(Document entitled 2004 Back to School
16	"Oxy Tunes", w/attachments, was received and
17	marked Exhibit 8 for Identification.)
18	* * * *
19	* * * *
20	(Document entitled Oxy's Loyalty
21	Program was received and marked Exhibit 9 for
22	Identification.)
23	* * * *
24	* * * *
25	(Print advertisements, w/attachments,

1 .	was received and marked Exhibit 10 for
2	Identification.)
3	* * * *
4	* * * *
5	(Marketing communication for Oxy was
6	received and marked Exhibit 11 for
7	Identification.)
8	* * * *
9	
10	* * * *
11	(Whereupon the deposition was concluded
12	at 3:07 p.m.)
13	* * * *
14	
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I, JAMIS BROWN, do hereby
certify that I have read the foregoing pages,
, and that the same is a correct
transcription of the answers given by me to the
questions therein propounded, except for the
corrections or changes in the form or substance, if
any, noted on the attached errata sheet.
SIGNATURE: DATE: II /6/06_
SUBSCRIBED AND SWORN to before me this the
day of, 20
Notary Public

#### CERTIFICATE

I, Anna Maria Fasciano, a Notary Public and Certified Shorthand Reporter of the State of New Jersey and Commissioner of Deeds of the Commonwealth of Pennsylvania, do hereby certify that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I do further certify that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel and that I am not financially interested in this action.

Anna Maria Fasciano, C.S.R. Notary Public, State of New Jersey My Commission Expires June 2, 2009

Certificate No. 30X100200300

Commissioner of Deeds, Commonwealth of Pennsylvania My Commission Expires September 24, 2007

## A00866B JAMES CORBET BROWN OCTOBER 11, 2006

A
able 33:17
about 6:12 7:20,25
18:9 19:25 20:6 21:3
33:5,6 34:16 41:13
45:10 49:13
above 36:25
Academy 55:3,4,5,11 accept 28:23
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Attorney Ref.: 201-091

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

THE MENTHOLATUM COMPANY,

Opposer,

Opposition No.: 91/160,810

THEROX, INC.

٧.

Applicant.

### OPPOSER'S AMENDED NOTICE OF TAKING TESTIMONY DEPOSITION

Opposer hereby amends its earlier Notice of Taking Testimony Deposition dated September 22, 2006. Opposer notices that it will take the testimony deposition upon oral examination of James Brown on October 11, 2006 commencing at 1:00 p.m. The testimony deposition is being taken pursuant to Trademark Rule 2.123 and will be taken telephonically. Mr. Brown will appear at GlaxoSmithKline Consumer HealthCare, 1500 Littleton Road, Parsippany, New Jersey 07054. Opposer's deposition will be taken before a certified court reporter or other person authorized to administer oaths.

You are invited to attend telephonically for purposes of cross examination.

Respectfully submitted,

THE MENTHOLATUM COMPANY

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Date: October 9, 2006

Richard A. Sharpe, Esq.

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EXHIBIT

2

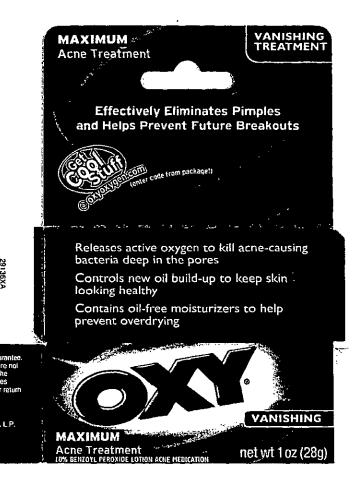
Amf 10-11-06







OPP00027-



### STOSWA07EEMZ

Manufactured in Canada for: GlaxoSmithKline Consumer Healthcare, L.P. Moon Twp, PA 15108 C2003 GlaxoSmithKline



Drug Facts

Active ingredient Benzoyi perceide 10%....

Purpose ne treatment

Uses treats and helps prevent acne pimples

Warnings

Warnings
For external use only
Do not use if you have very sensitive skin or if you are seristive to benzoyl peroxide
When using this product
- avoid unrespessary sun exposure and use a sunscreen
- using other topical acne drugs at the same time or right after use may increase
- drivess or irritation of skin. If his occurs, only one drug should be used.
- irritation may develop, such as redness, burning, tiching, peeting or possibly swelling
- more frequent use or higher concentrations may aggravate such irritation
- mid irritation may be reduced by using product less frequently or in a lower concentration
- keep away from eyes, sips, and mouth
- this product may bleach half or dyed labrics
- Stop use and ask a doctor If Irritation becomes severe and continues.
- Keep out of reach of children. If swallowed, get medical help or contact a
- Polson Control Center right away.

- Pleachtone

ЕλР

Directions

cleares skin thoroughly before applying

cover entire affected area with a thin layer 1 to 3 times daily

cover entire affected area with a thin layer 1 to 3 times daily

because excessive drying of the skin may occur, start with 1 application daily,
then gradually increase to 2 or 3 times daily if needed or as directed by a doctor

if bothersome dryness or peeting occurs, reduce application to once a day or

every other day

if going outside use a sunscreen. Allow Oxy Acne Treatment to dry, then follow directions in the sunscreen labeling.

if irritation or sensitivity develops, slop use of both products and ask a doctor



Drug Facts (continued) Other Information

KEEP TIGHTLY CLOSED
 avoid storing at extreme tempers
(below 40°F and above 100°F)

Inactive ingredients enyates copolymer, carboner 940, citric acid, dazolidnyl ures, dimeticone, discyl sodium subsoulcrate, edetate disodium, glyborin, propyres glybol, sibia, sodium hydrudie, waler, xanthan gum.

Questions? call us at 1-800-897-6771

•

### OXY Historical Reel Chip and Angela 7.07.03

	:30
"Angela's Clog"	:15
"Angela's Clog"	:30
"Knockout"	:15
"Knockout"	:30
"Scooter"	:15
"Scooter"	:30
"Fantastic"	:15
"Fantastic"	
"Stuntman"	:30
"Stuntman"	:15
"Embarrassed"	:1.0
"Embarrassed"	.15
"Contest"	:30
· "Contest"	:15
"Bowties"	:30
"Bowties"	:15
"Date" New Product	:30
"Date" New Product	:15
"Date. New Flordier	•

### Markorical Reel 1975-2003

"All Over Your Face"
"Future"
"Whether You're 12"
"Zits Come Out"

"Face the Facts"
"Zitso/Cover/Alt"

"Mayday"
"War Room"
"Oil/Rev"

"TV Head"

"Head/Zapper"
"Killer"

"Oxycute 'Em/ 2 Girls" "Oxycute 'Em/ 2 Girls"

"Concert Tickets"

"Concert Tickets w/ Guarantee"

"Casually Learning"
"Dream Date"

"Quicker Faster"
"Giant Box/ Red"

"Giant Box/ Red"
"Try Again"

"More!More!More!"

"Bathroom"
"Dust/ Rev."

"Dimples"

"Prom"

"Band"

"Arcade"

"Pressure Zit

"Dark/Don't Put Out"

"Non-New/ Don't Put Cut"

"Do's & Don'ts"

"Surprise"

"Get Off Me"

"Bye Bye Oil"

"Easel"

"How You Look Revised"

"Pressure Zit Revised"

"Skipping School"

"Non-Demo Skipping School"

"Experiment"

"Home Video"

"Revelation"
"Balance Rev."

"Reflections"

"Reflections with Color Word Demo"

"This is Balance Non-New"

"Heal"

"Purify"

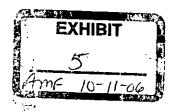
"Reveal"

"Ovy Emergency Spot Treatment This is Treatment"

"Oxy is Fixed"

"This is Balance, Rev."

"Take Note"



6

,



EXHIBIT

(g

Amr 10-11-06







### Internet Contest



Consumer Healthcare

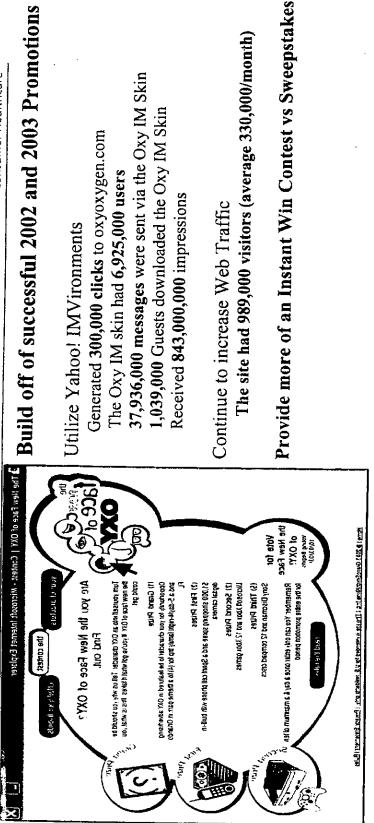
Utilize Yahoo! IMVironments

37,936,000 messages were sent via the Oxy IM Skin 1,039,000 Guests downloaded the Oxy IM Skin Generated 300,000 clicks to oxyoxygen.com The Oxy IM skin had 6,925,000 users Received 843,000,000 impressions

Continue to increase Web Traffic

The site had 989,000 visitors (average 330,000/month)

Provide more of an Instant Win Contest vs Sweepstakes



Back to School Internet Contest in August and September





## CXY 2004

GlaxoSmithKline Consumer Healthcare BTS In-Theater Slides Huy' OXY.
 So be avvivous/oxypper-eggn.
 Tam yourself into air Oxy character?
 Nu coud with the upportently for your expected in the intended in OXY advertising. Do yuu face
of OXY? **FARGE** 

In-theater slide example

### Oxy's 2004 FSI's



Consumer Healthcare



200 | \$200 | \$700 | \$300 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$700 | \$70



• AUGUST 10, 2004
BTS FSI
- \$1.00 coupon
30MM circ

### BTS Special Pack



Consumer Healthcare





• Timing

Quarter along with more details of the Loyalty - BTS Promotion details will be shared in First program



### 2004 Back To School "Oxy Tunes"



**GlaxoSmithKline** 

Consumer Healthcare

· Fully Integrated Program with Strong Marketing, In-Store and Trade Support





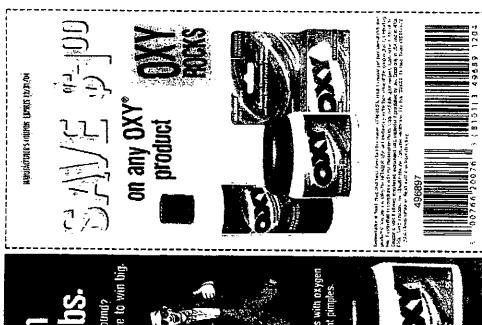
Sheff Talk - July & August 2004

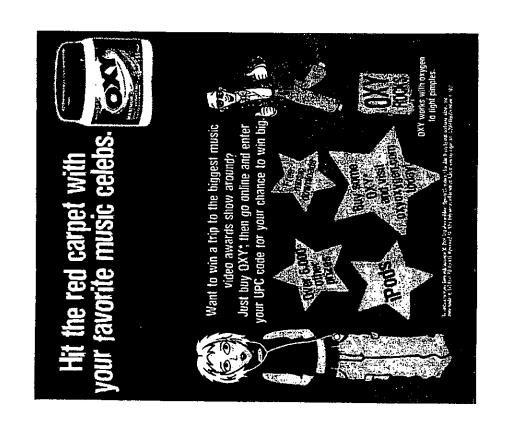


Display Contains 20 pieces Open Stock BOGO 90 of Oxy Maximum Daily Cleansing Pads

Oxy Maximum Daily Cheansing Padis Open Stock BOGO 30 ct











## LOYALTY PROGRAM



Consumer Healthcare

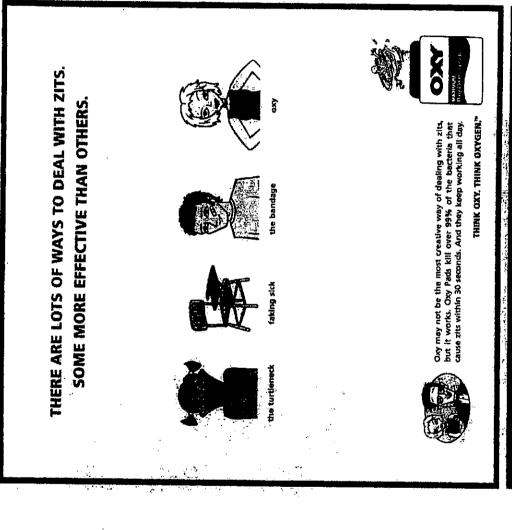
GlaxoSmithKline

Music Downloads

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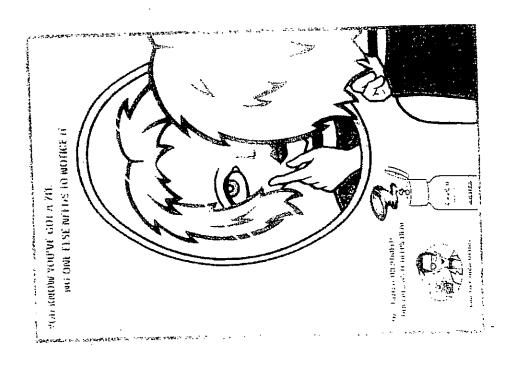
EXHIBIT

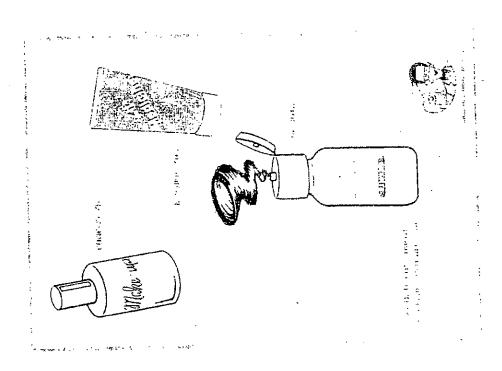


EXM IS MY 3

bo you have the more properties of the propertie

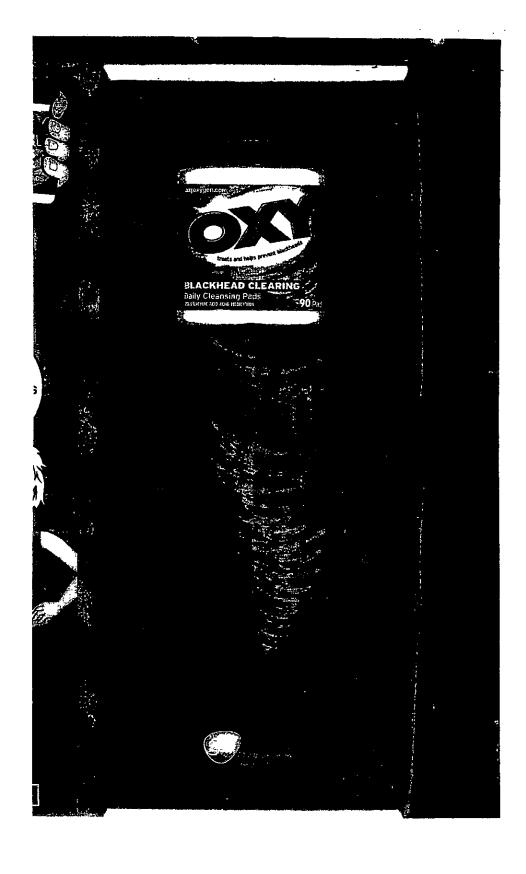
# Tinted Treatment Print Ads







Oxy® Blackhead
Clearing Pads start
working immediately to
fight existing blackheads
and help prevent
new ones from forming. THINK OXY. THINK OXYGEN. OPP00041



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

### **CERTIFIED COPY**

THE MENTHOLATUM COMPANY,

Opposer,

: Opposition No.

-VS-

: 91/160,810

THEROX, INC.,

Applicant.

\*\* CONFIDENTIAL \*\*

TRADE SECRET/COMMERCIALLY SENSITIVE
EXCERPTS OF DEPOSITION OF:
JAMES CORBET BROWN
PARSIPPANY, NEW JERSEY
OCTOBER 11, 2006

ATKINSON-BAKER COURT REPORTERS 500 NORTH BRAND BOULEVARD, THIRD FLOOR GLENDALE, CALIFORNIA 91203-4725

800-288-3376

REPORTED BY: ANNA MARIA FASCIANO

LICENSE NO. 30X100200300

FILE NO.: A00866B

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8	Excerpts of deposition was taken on behalf
9	of the Opposer, at the offices of GlaxoSmithKline,
10	1500 Littleton Road, Parsippany, New Jersey, before
11	ANNA MARIA FASCIANO, License No. 30X100200300, a
12	Notary Public and Certified Shorthand Reporter of the
13	State of New Jersey and Commissioner of Deeds of the
14	Commonwealth of Pennsylvania, on October 11, 2006.
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25	800-288-3376

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24	ATKINSON-BAKER COURT REPORTERS
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21	NONE		
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24			
25			

- 1 BY MS. LINDQUIST:
- Q. All right. Jim, can you identify
- 3 what's been marked Exhibit 3, please?
- A. Yes. It looks like it's a history of
- 5 sales on the various Oxy products available. And it
- 6 looks like it goes back -- what's shown here is the
- 7 sales from 1999 to 2004.
- 8 Q. Okay. And on the left-hand side of the
- 9 page, it looks like there's a list of different Oxy
- 10 marks. Can you identify what that list is of?
- 11 A. Yes. It's a list of what we call the
- 12 variants of Oxy or the SKUs of Oxy. It's the
- individual products that were available at shelf. So
- 14 it would have, you know, there's one listed for each
- count size, for each strength for pads, for creams,
- 16 et cetera.
- 17 O. And what's an SKU?
- 18 A. An SKU is a description we use to
- 19 describe an individual unit of product that's
- 20 available at shelf.
- 21 Q. Okay.
- 22 A. It's called a stock keeping unit.
- Q. So for the year 1999, what was the
- 24 total sales for Oxy?
- 25 A. Exhibit 3 here shows 28,222,000.

```
1
                   And what about for the year 2000?
            Q.
                   The exhibit shows 30,701,000.
2
            Α.
                   And for 2001?
3
            Q.
            Α.
                   28,820,000.
                   For the year 2002?
5
            ο.
6
                   26,176,000.
            Α.
7
            0.
                   And then can you give us the figures
8
     for 2003 and 2004?
9
                         The 2003, the figure was
            A.
                   Yes.
10
     24,334,000.
                  And in 2004, the figure was 21,762,000.
11
            Q.
                   Going back to the list that's on the
12
     left-hand side, does this represent every product
13
     that was ever offered under the Oxy mark?
14
            A.
                   Yes, during this time period. During
15
     the 1999 to 2004 time period.
16
                   MS. LINDQUIST: Okay. We're moving off
17
            the confidential part of the record now.
18
                   MS. WOJCIECHOWSKI: Okay.
19
20
21
                 (Whereupon the designated trade
     secret/commercially sensitive portion was concluded.)
22
23
24
25
```

```
MS. LINDQUIST: Okay. And now we're
1
           going to mark to a confidential part of the
2
3
           record again.
                   MS. WOJCIECHOWSKI: Which document are
            you going to be referring to?
                   MS. LINDQUIST: This is Exhibit 12.
6
                   MS. WOJCIECHOWSKI: And that is the
7
 8
           media planning?
                   MS. LINDQUIST: Yeah. That's titled
10
            media planning.
11
                   MS. WOJCIECHOWSKI: Okay.
12
                   MS. LINDQUIST: And it looks like lots
13
            of this information has a bunch of numbers on
14
            it.
15
                   MS. WOJCIECHOWSKI: ...left the room.
16
     BY MS. LINDOUIST:
17
                   Okay. Can you identify what's been
            Q.
18
     marked Exhibit 12?
19
                   Yes. This is a document entitled media
20
     planning at the top. And it's a document that is
21
     sent from our advertising agency to our in-house
     advertising expert.
22
23
                   How often do you receive a media
            Q.
24
     planning report like this for a particular brand?
25
            Α.
                   It can vary. We get a media planning
```

- 1 report from our ad agency every time there is a
- 2 revision to the media planning document. So it
- 3 can -- you could get an update like this once every
- 4 month or you could get it every three months. It
- 5 really is used just to update the brand managers as
- 6 to changes that have been made to the media plan.
- 7 Q. Okay. And this is a media plan for the
- 8 Oxy brand?
- 9 A. Yes.
- 10 Q. If we move to the second page, can you
- 11 identify what that is?
- 12 A. Yes. That page shows the schedule of
- 13 TV advertising for the Oxy brand for the year 2003.
- MS. WOJCIECHOWSKI: My document is cut
- off. Are you referring to OPP00197?
- 16 THE WITNESS: That's what I'm looking
- 17 at.
- MS. WOJCIECHOWSKI: Yeah. The
- 19 left-hand side is cut off of what I'm looking
- 20 at.
- MS. LINDQUIST: We provided these
- 22 documents to you earlier so...
- MS. WOJCIECHOWSKI: That's fine. I'll
- have to go look it up but I should have a
- clear copy of it.

- 1 MS. LINDQUIST: Okay.
- 2 BY MS. LINDQUIST:
- Q. At the top of that it says 2003 and
- 4 underneath it, it looks like there's another bar and
- 5 then underneath that there's a further bar that's
- 6 separated. What are those -- what are all those bars
- 7 representing?
- A. Let's see, I'm just looking. You're
- 9 referring to under the year 2003, you see bars?
- 10 Q. Yeah. It looks like there's -- it
- 11 looks to me like it says January, February?
- 12 A. Right. Underneath 2003, there's two
- 13 sets of bars. One is just the months of the year.
- 14 Q. Okay.
- 15 A. So January, February, all the way
- 16 through December. And the next one is -- there's a
- 17 bunch of columns with numbers and those represent the
- weeks of the year, and we always start with a Monday.
- 19 So, for example, on the left you see under January,
- you see a six, that means the week of January 6th.
- Q. Okay. And then further down, you see
- 22 the number 11?
- 23 A. Yes.
- Q. A lot of elevens and then the number
- 25 six. What are those numbers?

- 1 A. Those numbers are called GRPs. So the
- 2 number 11, for example, if you look there under -- on
- 3 the left-hand side you see the number 11 under
- 4 columns that have numbers 20 and 27, and that means
- 5 that for each of those weeks, 11 GRPs were purchased.
- 6 And if you look to the left, you'll see teen cable,
- 7 so 11 GRPs were purchased for each of those weeks in
- 8 the teen cable day part.
- 9 Q. Okay. And then moving to the second
- 10 page which is OPP00198 --
- 11 A. Okay.
- 12 Q. -- what is this? Can you identify this
- 13 page?
- 14 A. Yes. This is, it looks like it's more
- 15 detail on the TV buy. I'm just trying to see here
- 16 what the difference is.
- 17 The difference -- what this is is this
- is a schedule of the TV buy but the numbers are based
- 19 on households reached.
- 20 Q. Okay.
- 21 A. The prior page was based on reaching
- 22 teens 12 to 17.
- Q. Okay. And then can you move to what's
- 24 been marked OPP00199?
- 25 A. Yes.

- 1 Q. And can you identify what this document
- 2 is?
- 3 A. This -- the document says print plan.
- 4 It means these were -- this is a list of the
- 5 magazines and the dates when Oxy placed advertising.
- 6 Q. And then there's some numbers at the
- 7 bottom. At the far right-hand side, there's a box
- 8 that says 25 and then it has some other numbers and
- 9 then the very last number in that box is 707.0. What
- 10 is that number?
- 11 A. The 707.0 is the dollars spent on print
- 12 advertising.
- Q. And that's in millions?
- 14 A. That would be in thousands. So 707
- 15 means 707,000.
- 16 Q. Okay.
- 17 A. We wish we could spend 707,000,000. We
- 18 wouldn't be in a job for long though.
- 19 Q. Okay. And then moving to the next
- 20 page, it's marked 200?
- 21 A. Okay.
- Q. And can you identify what this document
- 23 is?
- 24 A. This is a monthly summary of the
- 25 dollars for each month in the year and it breaks them

```
out for the different magazines that were in the
1
2
    plan.
3
                   MS. WOJCIECHOWSKI: Leigh Ann, can we
            go off the record for a second?
                   MS. LINDQUIST: Sure.
6
                   (Whereupon a discussion was held off
            the record.)
10
                   MS. LINDQUIST: Back on the record.
11
     BY MS. LINDQUIST:
12
            ٥.
                   Is what's been marked as Exhibit 12, do
13
     you know if this particular media plan was put into
     effect?
14
15
                   Yes. Actually, I'm just looking at the
16
     date on the document. This document shows that this
17
     was the plan as of December 23rd, 2002. There's no
18
     reason to think that the plan wasn't put into effect,
19
     but a subsequent document would have been confirmed
20
     that this plan was put into effect as stipulated
21
     here.
22
            0.
                   But this plan, it represents the type
23
     of media planning and execution that would have been
24
     done for the Oxy brand?
25
            Α.
                   Absolutely.
```

- 1 Q. Okay. And then we're going to mark
- 2 Exhibit 13 which is advertising figures, and we're
- 3 still on the confidential record, but we'll move
- 4 through this fairly quickly.
- 5 Can you identify what's been marked as
- 6 Exhibit 13?
- 7 A. Yes. This is a spread sheet that shows
- 8 all of the dollars of support behind the Oxy brand
- 9 for 1999.
- 10 Q. Okay. And on the right-hand side or on
- 11 the left-hand side, excuse me, there's a column and
- 12 it says advertising and there are things listed
- 13 underneath it and then marketing. Can you explain
- 14 the difference between advertising and marketing
- 15 there?
- 16 A. Advertising -- the advertising section
- 17 specifically refers to purchased advertising space,
- 18 like TV, print, radio, things like that. Under the
- marketing section, you have other types of spending,
- 20 like research or spending with the trade to put those
- 21 little ads in the Sunday circulars.
- Q. What's tactical marketing?
- 23 A. That is, tactical and strategic are
- 24 sort of, tend to be grouped together. Things like
- 25 advertising at shelf, like what we talked about

- earlier, shelf talk, that would have been grouped
- 2 under tactical marketing.
- Q. And then support, what would that be?
- 4 A. That's a range of costs that end up
- 5 coming under the brand profit and loss statement. So
- 6 like research would fall under support, other general
- 7 costs to run the business.
- 8 Q. Okay. The last row in this chart is
- 9 titled total spending and it has various numbers in
- 10 it. Are those numbers in the thousands?
- 11 A. Yes, they are.
- 12 Q. And then if you move to the second page
- 13 which is 208?
- 14 A. Uh-humm.
- 15 Q. Can you identify what ARS is in the
- 16 left-hand column?
- 17 A. Yes. ARS is a type of research that is
- 18 typically done to help evaluate the effectiveness of
- 19 TV advertising.
- Q. Would that also include radio
- 21 advertising?
- 22 A. It could be done for either.
- Q. Did this brand spending indicate that
- 24 there are radio advertisements done for the year
- 25 1999?

- 1 A. I'm just looking here. This doesn't
- 2 show here specifically that there were radio
- 3 advertisements done. It shows that there were radio
- 4 advertisements produced.
- Q. Okay. So has there been radio
- 6 advertising for Oxy in the past?
- 7 A. There has been, yes.
- Q. And then if we move to what's labeled
- 9 OPP00213?
- 10 A. Okay.
- 11 Q. In the middle of the column on the
- 12 left-hand side it says, N'Sync concert tour, I think.
- 13 What is that?
- 14 A. That would have indicated, again, this
- is back in 1999 before my time in the business, but
- 16 that would have indicated that Oxy sponsored a tour
- 17 of the band N'Sync.
- 18 Q. Okay. And then if you look on the
- 19 bottom --
- MS. WOJCIECHOWSKI: -- on the personal
- 21 knowledge issues to expedite this deposition,
- we are willing to stipulate that the document
- reflects the actual numbers that were spent.
- MS. LINDQUIST: Okay.
- 25 BY MS. LINDQUIST:

+	Q. And can you just bitelly look at page
2	220, 221 and 222 and just briefly state what each of
3	those pages are? They're the last three pages of
4	this exhibit.
5	A. Okay. 220 shows the advertising, I'm
6	sorry, the total spending for the year 2002. And
7	then 221 shows the spending for the year 2003. And
8	222 shows spending for the first half of the year
9	2004.
10	Q. And are these advertising figures
11	representative of the type of, or the amount that
12	Oxy, or Glaxo would have spent on the Oxy brand?
13	A. Yes.
14	MS. LINDQUIST: Okay. And now we're
15	off the confidential part of the record.
16	MS. WOJCIECHOWSKI: Thank you.
17	* * * *
18	(Whereupon the designated trade
19	secret/commercially sensitive portion was concluded.)
20	* * * *
21	
22	
23	
24	
25	

```
1
                   MS. LINDQUIST: And then we're going to
           move back on the confidential record very
2
           quickly and mark Exhibit 14.
3
                   MS. WOJCIECHOWSKI: The market research
            summary?
                   MS. LINDOUIST: Yeah.
7
    BY MS. LINDOUIST:
                   Can you identify what this exhibit is?
            0.
9
                   Yes. Oxy had what was called a
10
     tracking study, which meant it was a piece of
11
     research that was done year after year to track
12
     progress in certain key areas with the teen consumer.
13
            Q.
                   So if you move to what's been marked
     OPP00228 which is the fifth page of this exhibit?
14
15
            Α.
                   Okay.
16
                   Can you identify what that chart is?
17
                   28, yes. This shows -- the title of
18
     the chart says aided brand awareness and usage by
19
     teen awareness, usage and purchase intent.
20
            Q.
                   So under the aided brand awareness, Oxy
21
     is listed. What is aided brand awareness?
22
            Α.
                   Aided brand awareness means if you
23
     asked, for example, a teenager if they've ever heard
```

of the Oxy brand, that's what aided means. Aided is

different from what we call unaided awareness.

24

- Q. And what are the number -- what are the
- 2 numbers for the aided brand awareness for Oxy where
- 3 it says total teens, the first number?
- A. The number there shows that Oxy has 67
- 5 percent aided brand awareness.
- 6 Q. Is that considered a high number?
- 7 A. That's considered a strong number.
- 8 MS. WOJCIECHOWSKI: Lack of foundation.
- 9 BY MS. LINDQUIST:
- 10 Q. And what do you base your
- 11 representation that that's considered a high number
- 12 on?
- 13 A. All of my history working on a range of
- 14 brands, a 67 percent awareness number is pretty
- 15 strong.
- 16 Q. So in your other positions, aside from
- 17 being the Oxy brand manager, you would have been
- involved in market research studies?
- 19 A. Yes.
- MS. LINDQUIST: Okay. And now we'll
- 21 move off the confidential part again.
- **\*** \* \* \* \*
- 23 (Whereupon the designated trade
- 24 secret/commercially sensitive portion was concluded.)
- 25 \* \* \* \* \*

```
MS. WOJCIECHOWSKI: I'm going to a
1
2
            reference a document that was previously
3
            designated as trade secret/commercially
            sensitive, so I'm going to ask my client to
            leave the room for a moment.
5
     BY MS. WOJCIECHOWSKI:
6
7
                   And I'm going to reference Exhibit, I
            0.
8
     should say Opposer's documents numbers 220, 221 --
9
                   MS. LINDQUIST: What exhibit are we
10
            talking about?
11
                   MS. WOJCIECHOWSKI: It would have been,
12
            oh Lord, I think it was 12. Is 12 the large
13
            group of the breakdown of all the marketing
14
            and advertising expenditures?
15
                   MS. LINDQUIST: 12 is media planning.
16
            And then 13 is the brand spending.
17
                   MS. WOJCIECHOWSKI: Then 13.
18
                   MS. LINDQUIST: Okay.
19
     BY MS. WOJCIECHOWSKI:
20
            Q.
                    It's Bates stamp 213, 216, 220, 221 and
21
     222.
22
            Α.
                   Okay.
23
            Q.
                    If you look at 213, if I'm reading this
24
     chart correctly, there were no advertising dollars
25
     spent in the pharmacy and managed care segment; is
```

- 1 that correct?
- 2 A. That's correct.
- 3 Q. Okay. Would that be pharmacies at
- 4 HMOs, medical labs, that kind of thing?
- 5 A. That, I don't know. I'm not familiar
- 6 with any efforts like that, so I'm not sure what was
- 7 intended by this descriptor here.
- 8 Q. But would it be your belief that it had
- 9 to do with a more medically-related field?
- 10 A. It's really unfair for me to say so,
- 11 because I don't recall.
- 12 Q. Okay.
- 13 A. I really don't recall this.
- 14 Q. If you'll switch over to page 216.
- 15 A. Okay.
- 16 Q. Would I be correct in reading that
- 17 chart that there was no dollars spent for medical
- 18 marketing in print ads, direct mailings?
- 19 A. That's correct.
- Q. All of the categories there, correct?
- 21 A. Yes, you'd be correct.
- Q. And looking at 220, which is brand
- 23 spending through December '02, 221 brand spending
- 24 through December '03 and brand spending year to date
- 25 '04 and document 222; am I also correct in assuming

```
1
    that next to the row marked medical marketing where
    there's a dash in each of the entries for each year,
    that there were no dollars spent?
                   That's correct.
            Α.
                   MS. WOJCIECHOWSKI: Okay. We're going
           off the confidential part of the record now.
                (Whereupon the designated trade
 9
     secret/commercially sensitive portion was concluded.)
10
11
12
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25
```

- 1 BY MS. LINDQUIST:
- Q. And then if we go back to Exhibit 14
- 3 which is the media planning exhibit, and this is
- 4 confidential, we're going to talk about some numbers
- 5 very briefly.
- 6 A. Are you referring to Exhibit 12?
- 7 Q. Yes -- no, Exhibit 14. Sorry, market
- 8 research summary now.
- 9 A. Okay.
- 10 Q. And if you look at what's marked on
- 11 OPP00225?
- 12 A. Uh-humm, okay.
- Q. And it looks to me as if this is split
- 14 between teens and adults, but it would be better
- 15 maybe if you explained how this chart is split up at
- 16 the top?
- 17 A. Okay, sure. And my copy is a little
- 18 bit fuzzy, but it's clear enough for me to go
- 19 through.
- This is a chart of data on unaided
- 21 brand awareness by various age groups.
- 22 Q. Okay.
- 23 A. Okay. So on the left-hand side, you'll
- 24 see at the top there's a column that says unaided
- 25 brand awareness and it lists a series of brands,

- 1 Clearasil, Oxy, Neutrogena, et cetera. And then
- 2 going across the top, you've got different age
- 3 groups; 12 to 14-year-olds, 15 to 17-year-olds, all
- 4 the way through to adult age groups?
- 5 Q. In the adult age groups, can you read
- 6 those numbers, what they are?
- 7 A. 18 to 24, 25 to 34, and 35 plus.
- Q. Okay. And then if you go to the
- 9 unaided brand awareness for Oxy, I'm not sure if
- 10 you're able to read the numbers that are there for
- 11 the adults for each of the three ranges, but if you
- 12 can, can you read those?
- 13 A. Unfortunately some of my numbers are
- 14 blurry. I can see that for 18 to 24 year olds, it
- 15 looks like a 20.
- 16 Q. Okay.
- 17 A. For 25 to 34, it looks like a 49.
- 18 Q. Okay.
- 19 A. And then I cannot read the number under
- 20 35 plus.
- 21 Q. Okay.
- MS. WOJCIECHOWSKI: Just so we have it
- for the record, Leigh Ann, do you know what
- 24 that number is because my copies are fuzzy
- 25 too?

1	MS. LINDQUIST: I can look. If you
2	guys can hold on, I will look at the original
3	copy I have.
4	MS. WOJCIECHOWSKI: Mine looks like 11,
5	but I don't want that to be on the record
6	without reference to the document.
7	MS. LINDQUIST: And I do have clearer
8	copies. If it's agreeable with you, I could
9	provide a clearer copy to the court reporter
10	so it's just in the deposition transcript, it
11	would be whatever the number is, that it would
12	be visible.
13	MS. WOJCIECHOWSKI: And the document
14	speaks for itself, right?
15	MS. LINDQUIST: Yeah.
16	THE WITNESS: Excuse me, can I take a
17	ten-second break?
18	MS. LINDQUIST: Sure.
19	THE WITNESS: Literally ten seconds.
20	* * * *
21	(Whereupon a brief recess was taken.)
22	* * * *
23	MS. LINDQUIST: I'm looking at the
24	original here, and those numbers, the three
25	numbers 18 to 24 is 20, 25 to 34 is 49, and 35

- 1 plus is 17.
- MS. WOJCIECHOWSKI: Thank you.
- 3 BY MS. LINDOUIST:
- 4 Q. So can you explain what those three
- 5 numbers that I just read, can you explain what those
- 6 numbers mean?
- 7 A. Sure. It means that if you were to ask
- 8 an 18 to 24-year-old what acne brands they knew of --
- 9 Q. Uh-humm.
- 10 A. -- 20 percent of them would say Oxy.
- 11 Q. Okay.
- 12 A. And so on. So if you were to ask a 25
- 13 to 34 year old what acne brand they knew of, 49
- 14 percent would say Oxy.
- 15 Q. And what date was this study done?
- 16 A. You would have to look at the first
- 17 page. It looks like the end of -- it looks like it
- 18 was completed in the year 2002.
- 19 Q. Okay. So when one of these studies was
- done, how long would it take the market research
- 21 company to conduct the study? Would it take a month,
- 22 would it take two weeks; do you have any idea?
- A. No more than one to two months.
- Q. Okay. And hold on just one second.
- MS. LINDQUIST: All right. We're off

```
the confidential part of the record.
1
2
3
                 (Whereupon the designated trade
     secret/commercially sensitive portion was concluded.)
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1	* * * *
2	(History of sales was received and
3	marked Exhibit 3 for Identification.)
4	* * * *
5	* * * *
6	(Document entitled Media Planning was
7	received and marked Exhibit 12 for
8	Identification.)
9	* * * *
10	* * * *
11	(Advertising figures was received and
12	marked Exhibit 13 for Identification.)
13	* * * *
14	* * * *
15	(Market research summary was received
16	and marked Exhibit 14 for Identification.)
17	* * * *
18	
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21	
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23	
24	
25	

I, Janes Brown, do hereby
certify that I have read the foregoing pages,
, and that the same is a correct
transcription of the answers given by me to the
questions therein propounded, except for the
corrections or changes in the form or substance, if
any, noted on the attached errata sheet.
SIGNATURE: A ams 17- DATE: 11/4/00
SUBSCRIBED AND SWORN to before me this the day of, 20
Notary Public

#### - SIGNATURE/ERRATA PAGE -

I,, do hereby
certify that I have read the foregoing pages,
, and that the same is a correct
transcription of the answers given by me to the
questions therein propounded, except for the
corrections or changes in the form or substance, if
any, noted on the attached errata sheet.
;
SIGNATURE: DATE:
SUBSCRIBED AND SWORN to before me this the
day of, 20
Notary Public

### CERTIFICATE

I, Anna Maria Fasciano, a Notary Public and Certified Shorthand Reporter of the State of New Jersey and Commissioner of Deeds of the Commonwealth of Pennsylvania, do hereby certify that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I do further certify that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel and that I am not financially interested in this action.

Anna Maria Fasciano, C.S.R.

Notary Public, State of New Jersey My Commission Expires June 2, 2009

Certificate No. 30X100200300

Commissioner of Deeds, Commonwealth of Pennsylvania My Commission Expires September 24, 2007

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EXHIBIT

			1,999	2000	8	2001	<del>,</del>	2002	2.5	2003 Actual Final	U3.	200 Estimate	2004 pate
		Actual,Final Units Net 9	Final Net Sales Pedod	Actual.Fi Units Na Pe	I,Final Net Sales Period	Actual Pinal Units Net Sales	ısı 1 Sales	Units Ne	Sales	Undts	Net Sales		Ø
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xy New Rems	TIS TO SELECTION OF THE				0 0		, ,					39,667	2,151,101
xy Unclassed Items	Sed items	٠	,	16,692		18,081		17310	797,498	11749	496,215	5,914	320,018
	ž	6,857	372,889	6,402	309,948	2 47 150	108	0	- 305 072	15954	1.223.037	10,712	849,900
	OXY DAILY MAINTENANCE CLEANSING PADS	, ,		13,361	634,927	15,788	857,662	13604	728,509	7117	376,090	7,447	234,185
30350A	OXY DEEP PORE CLEANSING SENSHIVE SAIN	3,104	169,453	6009	269,882	o	488	0	• !	0			. 174 051
	XY DEPT PORE CLEANSING SENSITIVE SKIN	. •		9.817	661,194	13,332	1,024,855	14793	1,129,684	15438	1,1/9,0/8	27.057	1,467,536
	OXY MAXIMUM DEEP PORE CLEANSING 24X55	•		33,312	1,627,140	S S	2,962,552	25004	Z.954,202	Beec	2011		,
	OXY MAX DEEP PORE CLEANS +20 FREE 24X75 CT PADS	11,789	641,692	6,237 50,405	3.911.406	73.861	5.757.495	81072	6.293.914	86159	6,655,669	62,815	5,004,422
	OXY MAXIMUM DAILY CLEANSING PADS	. ,			0		,	!	•	69.69	531,199	12,191	971,138
53200	OXY BLACKHEAD CLOMG PAD 24X39CF NEW PROCESS.	•		1,524	122,545	(15)	(1,195)	•	•	۰.		•	• •
	OXY ON THE GO SAMPLING BROCH WICOUPON				•		•	0		0 0	• •		
_	OXY PADS REG 24X50 CT		•	•			. (450)	9 0		0	•	•	
	OXY PADS REG NO CARTON 24X50 CT		• •			(e) .	(nor)	0	•	0			
_	DXY PADS MAX STR NOCARTON 24X50 CT			•	•		•	0		0		•	•
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003334	OXY DADG MAX STR 24X90 CT						•				•		• •
٠.,	OXY PADS MAX STR NOCARTON 24X90 CT	•	•	•				•	•	•			•
. ~	XY PADS SENSITIVE SKIN 24X50 CT	1	•	•		•	•	9 0	• 1			•	
_	OXY PADS SENSITIVE SKIN NO CARTON 24X50 CT		•				, ,	<b>&gt;</b> C		. 0	•	ı	
	OXY PADS SENSITIVE SKIN NO CARTON 24X90 CT	50.678	85 870 7	. 25	4.511.817	48 212	3.838.805	59608	4.655.586	60283	4,698,174	53,039	4,220,125
_	OXY 10 SPOT TREATMENT INVISIBLE 24X1 UZ	4.389	351,710	2,103	169,447	2	159	0	•	0		•	•
200208	OXY MAXIMUM ACINE TRESTMENT TO STATE SAX 10 SPOT TREATMENT INVISIBLE 24X10		•	•		14,514	1,112,257	-,	(688)	- 5	(121)	3.677	- 288 041
	OXY SENSTIV SPOT TREATMIT INVISIBLE 24X1 OZ	15,869	1,258,363	10,108	813,250	9,039	687.487	12008	761,511	8,0	419,204	3,921	16,007
~	OXY ACNE TREATMINT SENSITY SKIN - VANISHIN	2.624	209,918	4,110	330,679		262 623	o r	18 187	•			,
O	OXY SENSITIVE SPOT TREAT INVISIBLE 24X1	•		•		3,481	£26,262	3	į.	0	•		
	OXY-10 TINTED 24X1 OZ	34,626	2,770,581	33,665	2,681,798	19 474	1,546,679	28613	2,090,794	28100	2,019,283	21,050	1,676,747
200	OXY-5 VANISHING Z4X1 OZ	•						0		0			
	캶			. ;				•	, ř	c		•	
	OXY-10 VANISHING 24X1 OZ	33	(AB)	(-) (-)	5 147	. (21)	(961)	7	(1.364)	-17	(1,335)	•	•
_	OXY MAXIMUM MEDICATED FACE WASH 24XB04 FULL FOR	37.486	2,953,966	43,576	3,495,057	42,939	3,428,257	46007	3,574,581	44537	3,467,691	39,281	3,129,866
A02100	OXY WASH DIEP PENETRATING FACIAL CLEANS 2	18,443	1,476,171	3,212	125,799	• ;	•	0	. !	0	154 657	, c	11.675
	OXY DEEP CLEANSING SHOWER GEL 24X8.2 OZ	•		22,768	1,832,197	15,540	1,218,797	8221	521,374	e C	7FC'167	·	<u>.</u>
	OXY SHOWER GEL WIFREE SHOWER PUFF 24X		٠,	₹ .	010'01	3.	٠	0		0	•	•	
200124	OXY MOISTURGING PACEWASH 24X8 OZ	•			•		0			,			
_	OXY-10 FACE WASH 24X4 OZ	•		ı	. !		,	0 1		0			• •
	OXY DEEP ACTION NIGHT FORMULA TUBE 24X40Z	99	3,111	54	3,665	•	•	50	•	9 0	. ,		•
	OXY FACIAL CLEANSING BAR 24X3.25 0Z	15,418	379,159	212	3,480	€	(87)	90		0	,	9	(398)
_	OXY ALL NIGHT DEEP PORE TREATMENT 24X2	12,40/	DRA: /65	3 7 99	145.707	€.	ો .	0		•	•	•	•
٠	OXY ALL NIGHT DEEP PORE TREATMENT 24A20			,				0		0		٠	•
10365	OXY NIGHT WATCH SENSITIVE 24X2 OZ			•		•		0 ;		0 (		•	•
	OXY 2XBOCT MAX + 1X28CT OTG =ONE 208CT	•		•	. !	11,051	1,672,700	5.50	(2,989)	0	148 453	. V	147 831
	OXY MAX DEEP PORE CLEANS PADS TWIN PACKS	5,791	1,258,216	6,061	1,324,688	1,768	382,906	2024	432,830	586	97,869	ξ.	,
	OXY CLUB 4-PACK 20 X 4-PACK					•	•	3392	189,060	2623	149,228	•	,
753022 C	OXY BALANCE FS/SK B-1-5 SSNOS, 18 FCS OXY BALANCE MIXD FS/SK 16PCS 4SKU BACK	•					•		, 000	1218	59,443	•	• •
_ ₹		•	•	•	•	•		3392	189,060	<u> </u>	708,677		•
700121	DEEP ACTION NITE FOR	٠	٠	•		•		<b>-</b>					
	OXY PADS REG BONUS PK 24X70 CT									)			

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4 4	190 OYY MAXIMUM DEEP YOKE 120C OXY 10 SPOT TREATMENT 325 OXY COUNTER UNIT 20P Discontinued Plug Jatinont Forecasting View
00167 00118 00118 00283 00480 10506 1	\$2.50 \$4.00 \$2.50

### MEDIA PLANNING

December 23, 2002

Ms. Suzanne Spahr GlaxoSmithKline 1000 GSK Drive Moon Township, PA 15108

RE: Oxy 2003 Revision #1 (\$7,450.0M)

Dear Suzanne:

Attached please find Revision #1 of the 2003 Oxy media plan for your review. This plan reflects the elimination of Radio, which funds additional Cable TV in the summer and additional Internet activity. Please note, this plan also reflects the incorporation of the Print Plan. The following outlines specific changes to the plan:

- ✓ Eliminated Network Radio activity (weeks 6/2 through 7/28) (-\$1,151.0M)
- ✓ Funds from above reinvested into additional Cable and Internet activity
  - Teen Cable to run at 35 grps/wk from 6/2 through 7/28 at 100%:15s (+\$791.9M)
  - Internet budget for the year has increased to \$859.0M (+\$359.0M)
    - → Activity has been reflighted to include the months of April and September
- ✓ Print activity is flighted from May through October (P4CB, 1/3 P4CB) in the following publications:
  - → CosmoGirl!
  - → DC Comics
  - → Elle Girl
  - → Scholastic Teen (5 Network)
  - → SI for Kids Teen Select
  - → Teen People
  - $\rightarrow$  YM
- ✓ Print A4wk and Cume deliveries are 37/1.6/61 and 64/5.7/365, respectively
- ✓ Overall, A4wk and Cume deliveries drop to 73/3.0/217 and 96/16.4/1577 vs. 86/3.8/328 and 96/17.0/1631 in the Original Approved Plan (as a result of eliminating Radio)

As always, please call me at (212) 463-1047 with any questions or comments.

Regards.

Pur Black

Preeti Bhatt Media Planner EXHIBIT

12

Anif 10-11-06

Cc: <u>GSK</u>: K. Schade, D. Singer, T. Gallick, D. Sefer, C. Saltmar <u>MPG/Arnold</u>: S. Waterman, M. Gordon, M. Walker, B. Silverstein, A. Morton, J. Post, P. Friedland



OPP00196

MPG



	ALTER 4-WK COLVERY	) led \$ (M)	heldy TV GRP's	M (IPP- Accused \$1"	EM (in-product placement)	vz Venicles (TBD)	-thesior Sides	terner	rtar	φια δητατισμός	Hone	een Cabb	
Combined	Print				~4	-				30%	30%	30%	
83/3,0/180	65/2 B/180 —	\$1,309.9	45 45 45							G G			
73/3.1/225	55/2 9/100 39/17/65	\$1,808.D	<b>4 4</b> .						68	G G			
743.1733	607,9175 381,656	\$3,668.0	35 51						32 53 67	<i>a</i> a		# The state of the	
2016.2001	5072.0988 3911.6884	\$684.1	<b>1</b> 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1						2	(a) (b) (c) (c) (c) (c) (c) (c) (c) (c) (c) (c			
Total imp's (MM):	Avg 4-Wk: CUME Delivery:		29 TV Weeks		<del></del>				<b>36</b>	115	248	524 209	1
386.8	73/3,0/217	87,450.0		5 <del>4.</del> 2	\$6.2	\$254.3	\$620.0	\$459.0	\$707.0	\$80A.4	31,860.3	\$2,306.0	



a angular . .

KEM (in-product placement) Buzz Vertice (TBD) HH Universe (M): KEW (IPP- Account \$)" In-thesity Silices Washly HH GRP's **Teen Syndication** :15°s :30°s Weekly Totals ]:15'a :30'a Weekly Totala ]:15's :30's Weekly Totals 106,700 90 6 11 20 27 3 10 17 24 3 10 17 24 31 7 14 21 28 5 17 18 28 2 8 18 27 30 7 14 21 28 4 4 11 18 25 1 8 15 22 28 5 13 20 27 3 10 17 24 1 8 15 27 2 \$1,309.0 ā a 39 ä 22 밀 31 EH GRP's 240 1020 299 ŧ Cest \$ 180 \$1,860.3 \$7,450.D \$2,306.6 \$254.3 \$620.0 \$159.0 \$707.0 \$830.4 \$6.2 \$44.2

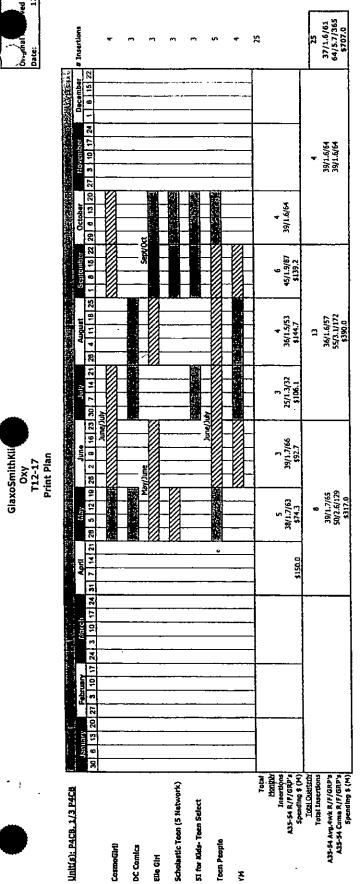
۲.

GiaxoSmithkline OXY 2003 - Ravision #1 TV HH Purchasa Goals 12/23/02

These note: All KEM (IPP- Accound \$) has been allocated in the 2002 media budget and is not reflected in the 2003 budget

OPPOOLS





1/3 PACB

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GlaxoSmithKiine Original Approved 2003 Monthly Budget Summary by Billing Month

								\$706,957
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1,100,000	80	S.	0\$	8	80	80	93	F7 .
	0\$	93	03	03	03	9	05	
्र <u>वि</u>	\$13,23	93	\$0	\$30,037	\$22,680	\$63,200	03	
2017年ま	\$23,238	8	\$17,741	\$30,037	\$22,660	\$28,100	\$22,953	: ;
· · · · · · · · · · · · · · · · · · ·	St.	\$13,995	\$7,983	8	05	\$28,100	155,984	42.00
	0\$	\$13,995	S	\$	\$22,680	03	\$55,984	-
	\$23,238	0\$	80	æ	\$	\$28,100	\$22,953	1831
427	\$54,380	\$13,995	\$7,983	\$10,483	8	\$63,700	20	148/4
	05	<b>9</b>	20	20	8	\$0	03	*
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	05	0\$	0\$	0\$	9\$	0\$	0\$	
	CosmoGirll 5124.096	DC Comics	Elle Girl	Scholastic Teen (5 Network)	SI for Kids- Teen Select	Teen People	YM 8157,874	Roman con George Son

TRADE SECRET/COMMERCIALLY SENSITIVE

GlexeCmithiGine OXY 2003 - Revision	Andhly Budget Summary	1(1)
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				SUARTER	a				3	QUARTERLY TOTALS	3				SAMATE.	RLY TOTAL				8	TERU 19	- N	8	GRAND TOTAL		
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BRAND TOTAL	199.4	4483		1,309.8	330	340	641.9] BOQ.4	328.5	1,808.6	449	346	770.6	1,976.1	1,721.0}	3,664.5	989	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	694.1	80	EK.	102		1,430.0	1,577	1,024	
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	1.25	T 12-17 Universe (MM):		24.7				2	100 E	₹	Comme			3		Tuest St.	2			Target	Target impressions[UIS];	(MM):	Ē		-	
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		SPENDING			to#			HH GRP's	8.c				f 12-17			
	Total \$	\$ 06:	:15\$	**	Weeks	Anna/ Week	Total	:30	:15	Wkly	Total	GRP %	30	.15 ¥	Wkły	% 15's
Teen Cable	\$2,306.8	\$2,308.8 \$1,009.9	\$1,297.0	31%	29	33	480	137	343	41	734	47%	508	524	97,	71%
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Syndication	\$838.4	\$557.8	\$278.8	11%	20	3	249	125	125	12	230	15%	115	116	Ξ	20%
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															-	Manual Consults
							1.1	77.		17 .	15.15	1000	161		60,222	E-12/1/24/K
					I 12	17										
	Male/Female Skew:	Kew:	41%	% <del>69</del>			Impressions (MM):	(MM):	388.5							

\$14.69	\$20.69		
CPM:	Adj. CPM:		
73%	1,119		
27%	•		
Copy Splk (:30/:15):	Adj. Target GRP's:		
	27% 73% CPM:	1,119	27% 73% CPM: 1,119 Adj. CPM:

TARGET	CUME	88/13,8/1212	35/1.4/50	96/16.4/1577
¥ا				
DELIVER	CUME	94/11,0/1028	11	94/11.0/1028
	4WK	62/2,3/142	11	82/2,3/142
		National TV	Print	TOTAL

\*Pigese note: At KEM (IPP- Accrysd \$) has been altocated in the 2002 media budget and is not reflected in the 2003 budget

		SPENDING	-		jo#	Annel		HH GRP's	8,0				T 12-17			
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か 200mm 10mm 10mm 10mm 10mm 10mm 10mm 10m				50	では										Target I	fermor.
Teen Syndication	\$259.8	\$173.2	\$36.6	20%	9	3	4	39	8	13	72	27%		36 36	12	20%
		では、												11.00	.1	
internet 4	\$191.0			15%					;							
THE RESERVE AND ASSESSED.																
KEM (IPP- Accrued \$)*	\$16.8														`	-
																星 医
TOTAL	\$1,309.9	\$463.6	\$655.3	100%	9	32	249	83	168	42	270	100%	102	102 168	4.5	62%
	Male/Female Skew: Copy Split (:30/:15): Adj. Target GRP's:	Skew: ta/:15): RP's:	39% 38% 148	61% 62%	11247		Impressions (MM): CPM: Adj. CPM:	(MM): \$16.83 \$30.72	9 66.5 2			·				

į	COME	73/3,7/270	Ħ	73/3,7/270
•	4-WK CUME	65/2.8/160	1)	63/3.0/180
DELIVERY	4-WK CUME	76/3.3/249	ŧI	76/3,3/249
-	4-WK	67/2,5/166	11	67/2.5/168
		National TV	Print	TOTAL

\*Please note: All KEM (IPP- Accused \$) has been allocated in the 2002 media budgel and is not reflected in the 2003 budget

		SPENDING	-		jo#	Annc/		HH GRP's	5,d}				T 12-17			;
	Total \$	:30 \$	:15\$	* %	Weeks	Week	Total	:30	:15	Wkiy	Totaí	GRP %	:30	:15	Wkty	% 15's
Tonn Cable	\$857.3	\$212.5	\$444.8	36%	8	36	145	28	117	\$	228	51%	4	<u>¥</u>	28	81%
Barner Manager 1	THE STREET		1000	35.00	The state of the s	TO SEE									乳海体	14500 14500
Toon Syndication	\$161.2	\$107.5	\$53.7	%B	4	9	84	24	24	12	48	11%	24	24	12	20%
		50	12.06.21													が経
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MERCHANIST CONTRACTOR						10000000000000000000000000000000000000		20元							が大きない	
		S. 161. 3				STATE OF STREET	1, 14	(3)			2.0	Sections.				SE FEET TO
		- V - V - V				12-17										
	Male/Female Skew: Copy Split (:30/:15): Adj. Target GRP's:	Skew: 30/:15); iRP's:	42% 21% 330	88.7 7.8%			Impressions (MM): CPM: Adj. CPM:	; (MM); \$13.70 \$18.60	110.6 70 60			•				

13	CUME	68/4.7/320	39/1,7/95	84/5.3/449
TARG	4-WK	55/2.9/180	39/1.7/95	73/3.1/225
DELIVERY*				
r	COME	72/3.4/246	II	72/3.4/246
	4-WK	56/2,2/123 72/3,4/246	11	58/2,2/123
		National TV	Print	TOTAL

\*Please note: All KEM (IPP- Accrued \$) has been allocated in the 2002 media budget and is not reflected in the 2003 budget

	% 15's	77%	100%	20%		,		•				78%	
	4	_	<u> </u>	_	<u>.</u>							-	ļ
	ΚŖ	~		-	2 !							55	
		252	118	33								409	ĺ
	:15												
12-17	30	77		8	器器		製器				1	115	
-	-	- ZP	<u>a</u>	- <b>.</b> ₽	数	æ						¥	
	GRP %	47%	2000	11%		25%					10.1	1007	
		329		77	盟	172						988	
	Total								:				
	Wkly	18		13								8	
	5	90		4				i	Į		Į	6	
'n	:15	168		4			調響					349	
HH GRP'		51		4								98	
Ŧ	:30			Ī							ı		
	=	220		89								2	
	Total												I
Anne	Week	37		Ö								4	
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# of	Weeks	ľ										-	ľ
	_	28%	関照	%	<u> </u>	*	털	27%		_		%00I	
	% \$						ļ						
	:15 \$	\$652.8		\$98.5			Į					\$3,868.0 \$595.5 \$1,646.1	
<u>ت</u>		S.		0					-			8	I
SPENDING	30 \$	\$398.5		\$198.9								\$595	
ş		\$1,051.3		\$295.4		\$390.0		\$620.0	į	\$16.8		38.0	
	Total \$	10.12		\$23		ž3		\$6.	, - :.,	8		\$3,80	
-						Г			Ī	.15		r	1
				atlon				des	Sec. 18	coned			
		Feen Cable		Teen Syndication				In-theater Slides	<b>第125年 1950年</b>	KEM (IPP. Accrued \$)*		ږ	
			居	Jeen		퉏	題	를		KEN		TOTAL	

	171.7		
	<u></u>	\$15.33	\$20.93
	Impressions (MM)	CP.M:	Adj. CPM:
1.12-17			
	28%	78%	510
	<del>1</del> 1%	22%	ù
	Male/Female Skew:	Copy Split (:30/:15):	Adj. Target GRP's:

GET	4-WK CUME	80/6.6/524	55/3,1/172	81/7.6/696
TAR	4-WK	60/2.8/175	38/1,6/58	74/3.1/233
<b>DELIVERY</b>				
¥	4WK CUME	86/5.2/445	11	86/5,2/445
-	4-WK	63/2.4/149 86	11	63/2.4/149
		National TV	Print	TOTAL

\*Please note: All KEM (IPP- Accrued \$) has been altocated in the 2002 media budget and is not reflected in the 2003 budget



	Total \$ :30 \$		_	io #	Annc		HH GRP's				/1-71			
4		\$ :15\$	* *	Weeks	Week	Total	:30	:15 Wkby	Total	GRP %	30	:15	À	% 15s
	\$162.6 \$10	\$108.4 \$54.2	24%	3	19	87	4	14	. 45	28%	22	22	5	8
	Ĵ	THE STATE OF THE PARTY OF	1000				<b>西西西西</b>	<b>建一种的一种</b>	10 Care 10 Car	数152365	<b>新林林林村</b>	18-1120 V		8
Toon Sundivation		\$80.0	18%	3	3	ş	17	17	11 33	70%	10	18	Ξ	%0 <del>9</del>
					<b>西班</b> 格	を持ちると思い		が変を言うれる				1. 子子	21.09 (1)	阿拉克
Print									84	38%				•
THE RESERVE AND ADDRESS.	ではなった。	、今日の大学	1400				TO SERVICE STATE OF	<b>医生物性性</b>			take sa	THE PARTY OF THE P	N. 18.	マラ ラ
Ruzz Vehicie	\$124.0		19%										į	9
	*										が設定した。		が対象	
TOTAL	\$884.1 \$11	\$188.4 \$258.3	4001	60	23	88	31	22	29 162	100%	38	8	33	%09 *
				112-17	17									
Male	Male/Female Skew:		57%	l		Impressions (MM):		40.0						
Cop	Copy Split (:30/:15):	: 40%	%09			CPM:	\$11.12			•				
Adj.	Target GRP's:	÷	ž			Adj. CPM:	\$13.75							

4-WK CUME	50/2.0/98	1	34 39/1.6/64	•
4-WK			39/1,6/64	70/2.3/10
CUME	49/1.8/88 49/1.8/88	1	II	49/1.8/88
4-WK	49/1.8/88	į	u	49/1.8/88
	National TV	Radio	Print	TOTAL

**⇒**.





14-Jan-00																			
4:47 PM										1999									
				1st	-			Znd	1st				P.				4th	2nd	
	Jan	Feb	Mar	ğ	Apr	May	Jun	Qt	Haff	Juf	Aug	Sep	ð	50	Nov	Dec	ğ	Half	Year
Advertising					-														
Media		141	772	913	439	475	713	1,627	2,540		668	495	1,394	(36)	827	103	<b>\$</b>	2,288	4,828
Medla Savings	•	(9)	(30)	(36)	(17)	(18)	(27)	(62)	(98)	ε	ව	(46)	(20)	2	(27)	€	(23)	(79)	(177)
Production		•	8	65	(8)	16	Ξ	9	11	•	3	29	8	88	(20)	380	398	458	529
Other	1	,	4	9	56	7	13	46	52	(18)	38	3	23	2	2	49	115	138	190
Total Advertising	+	136	811	948	439	480	698	1,617	2,565	(19)	965	481	1,427	89	782	528	1,378	2,805	5,370
Marketing																- 1 2-			
Medical Marketing	٠	•	•	•	•	·	٠		'	,	,	•		·	٠		•		
Trade	132	140	210	482	82	128	128	386	868	118	207	104	427	115	118	<b>6</b>	243	670	1,538
Tactical Marketing	3 224	362	196	782	253	68	165	203	1,289	55	53	102	168	(117)	(63)	(49)	(228)	(61)	1,228
Strategic Marketing	232	938	440	1,610	42	167	62	271	1,881	-	8	398	948	(291)	56	173	(62)	886	2,767
Support	88	51	25	194	109	84	57	250	444	37	212	279	528	83	57	105	245	773	1,217
Total Marketing	676	1,491	904	3,068	533	469	412	1,414	4,462	187	1,021	883	2,071	(210)	168	538	197	2,268	6,750
						7													
lotal Spending	677	1,627	1,712	4,016	972	949	1,110	3,031	7,047	148	1,986	1,364	3,498	(142)	950	767	1,575	5,073	12,120

EXHIBIT

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Ame 10-11-06

pending	99 Actuals
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14-Jan-00																				
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	Project				18.				2nd	15.				E E				ŧ		
	#	Jan	Feb	Mar	Otr	Apr	May	Jun	ਲੁੱ	¥ai	亨	Aug	Sap	ğ	ğ	Š	Dec	ð		Year
Production/Editing		0	0	65	92	(6)	16	Đ	9	뒤	0	ä	8	8	8	8	380	398	ᇷ	529
Production		0	0	28	28	(6)	16	3	9	४	0	31	28	8	88	(20)	380	398		<del>4</del>
Radio Q1				23	23	<u>(9)</u>	18	Θ	6	32	_		   	0				0		35
Radio O2					0				٥	0				0				5		۵
Radio Q3					0				0	0		93		31	4	9	-	47		<b>8</b> 2
Radio Q4					0	_			o	0				0				0		0
Other				IO.	ι,	ව			ල	7				0				0		2
Big Idea					6				0	Φ				0			9	9	8	8
` ≥					0		-		0	0			59	8	<u>@</u>	(26)	320	28		320
ARS (Landis)		0	0	37	37	ō	٥	0	0	37	٥	0	0	o	Ö	0	0	ō	0	37
Radio Adv Eval	9370			20	8				0	20				Ó	•		_	0	_	8
US Ad Plus	8277			5	12				0	12				0				ō		12
Teen Qual/ Steer Wh	9286			3	ιĊ			•	0	က				o				0		'n
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																			1	
Other		F	-	4	9	26	2	13	46	52	(18)	88	3	23	ফ্র	7	9	115	138	ğ
Talent		О	0	٥	0	24	(12)	12	24	24	0	33	0	33	0	o	18	18	5	22
Talent					0	24	(12)	12	24	24		33		g	0		<b>£</b>	<u>6</u>	52	76
B Brydon					a				0	6				0				0	-	0
Integration					0				0	0			-	0				0	0	0
Prints, Shpng, Misc.		1	1	4	9	2	19	٦	. 22	28	(18)	2	9	(10)	8	2	3	16	87	135
Prints, Ship, Misc				1	-				0	=		4	-	4	9	_	18	77	2	82
Research					0	.,	138		13	18				0			60	80	Φ	58
Jordan McGrath				2	8				ò	7	(18)			(17)	m			ਲ	£	(12)
Grev					0	-		_	-	-				0				6	0	-
Agency Travel					-				0	8	_			0			9	6	6	Ф.
Miner Raymond			-	-	3	F	=	-	က	8		=	7	6	7	ᅱ	٦	6	9	12
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4;47 PM											1999									
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	#1:	Jan	Feb	Mar	ð	Apr	May	Į,	ŧ	Half	3	Aug	Sep	đ	- St O	Nov	Dec	ğ	Half	Year
Trade Allowances		132	140	230	482	2	25	128	386	888	19	28	호	427	115	118	10	243	g	1,538
FMP's	LIVE	119	127	118	384	118	118	115	347	711	103	55	105	311	103	106	50	314	625	1,336
T.O.B. Fund (FMP)	TOB	80	89	80	24	80	60	**	24	48	æ	8	7	23	7	₩.	80	Ø	5	68
MARS Fee	FEE	S	ω	2	75	, RD	ю	10	π	8	<b>ч</b> О	S	\$	15	Ş.	ĸ	G.	13	8	8
Bilibacks/Other		0	٥	78	79	0	0	0	0	79	0	91	(13)	78	0	٥	8	94	22	23
1998 FMP Overspend					0		-		0	0		16		91				o	2	9
Slotting				92	2				0	78			(13)	(13)			3	98	20	160
Ol BB Transfer Program					0				0	~				~		·		o	0	6
Off-Invoice Adjustment				•	0			_	0	0				ö			(202)	(202)	(202)	(202)

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	Project	_	i	-	¥ ;	•			Zud	<u>=</u> :				3rd				<b>\$</b>	Sud :	:
Testion Events	12	uer ?	reb	Mar	100	Apr	May	5 5	Š		3	₽ F	g i	ē	8	Š	2	<b>a</b>		je j
Company Lyons		1 6	2000	3	1 2	3 8	8	3 2	3 8	9	2 6	3 9	70,	90	100	(20)	(8)	(83)		37
1999 Coupon Events		139	288	186	911	248	82	7 2	415	20.00	3 6	₹ \$	8 8	3 5	2 2	ĝ ŧ	وَ وَ	(449)	(1)	000
Facial Wash IRC		°		°	°	°	°	0	°	°	1	10	3 47	2 4	1	1		P	5	40
Redemption					0				0	0			2	32				0	20	3.
Printing					0	-			0	0			`;	0				0	0	0
NIPP Savings		٥		9	٥	٥	٥	٥	٥	9	٥	0	0	0	ō	(20	0	(20)	(20)	8
News America					0				0	0				0		(20)		(20)	(20)	(20)
2/28/99 FSI		83	99	175	324	0	-	٥	-	325	0	7	(94)	(84)	o	0	Ē	(2)	(101)	224
Redemption				175	175		_		-	176			(94)	(84)			6	(2)	(101)	75
Distribution		83	99		149				6	149				0				6	0	149
4/11/99 FSI		56	0	93	148	174	O	٥	174	323	٥	0	(82)	(82)	0	0	0	6	(82)	228
Redemption					~	174		!	174	174			(92)	(92)				0	(92)	79
Distribution		8		8	149			•	0	149				0			_	0	Þ	149
8/29/99 FSI		٥	0	Ó	Ö	72	0	72	144	144	-	24	315	339	(169)	<u>@</u>	(73	(318)	21	165
Redemption					¢				0	0			315	315	(169)	(78)		(247)	88	89
Distribution					0	72		72	<del>1</del>	4 <del>4</del>		24		24			E	Ē	(47)	28
Drug ICM		٥	212	(98)	19	٥	8	٥	88	212	0	P	(34)	<u>£</u>	٥	127	9	127	83	305
Redemption	•		116		118				_	116			(34)	(34)				0	<u>§</u>	82
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Distribution		-			0				<del>-</del>	<del>-</del>				0				0	0	٥
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r. Spending	999 Actuals
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14-Jan-00 4:47 PM											1999									Γ
	Project				150			T	Znd	154				3rd				\$	2nd	
	<b>2</b>	Jan	Feb	Mar	ģ	Apr	May	Jun	ð	Half	Jul	Aug	Sep	ą.	Oct	Nov	Dec	ģ	Half	Year
Prior Year Coupons		83,	0	8	9.1	0	æ	٥	e e	83	٥	0	0	Ö	0	(83)	O	(83)	(83)	0
Redemption		83		8	16		(8)	,	(8)	83				0		(83)		(83)	(83)	٥
Refund Offers		0	0	0	0		0	12	12	12	7	O	٥	7	F	-	3	5	12	24
1999 Refund Offers		0		0	0	٥	٥	12	12	12	7	0	0	7	F	-	3	3	12	24
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Redemption	1342A				0			_	Ŧ	<del></del>	Ξ			Ξ	-			0	Ξ	0
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Redemption	Web				0				-	0				6		-	60	4	4	4
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Redemption					0				0	0				0				0	ō	°
Prior Year Refund		0	0	0	P	o	٥	0	0	0	٥	0	0	0	0	0	0	0	0	0
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Displays/Upcharges		7	76	ম	8	-	٥	93	88	168	9	13	4	ន	c)	-	o	15	8	9g
Floorstand Costs		7	7	01	4	7	S	2	8	47	-	<del>7</del>	55	8	2	~	ξī	8	8	107
Components		•	26	ε	8	•	<del>-</del>	67	19	148	<u> </u>	7	•	Ñ	•	•	•	0	N	84
Pailets		•	•	•	<del>o</del>	1	•	<del>.</del>	0	0	•	•	•	<del>-</del>	•	,	•	<del></del>	<del>-</del>	0
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Oxy Pds Whse Clb	700491	•		7	0	1	1	1	히	0	1	1	7	히	7	1	•	0	9	٥
Ficorstands			9	(9)	(12)	+	<u>(c)</u>	ε	(11)	(23)	(2)	9	9	(18)	(5)	ê	<u>(e)</u>	Ē	(36)	(£9)
March PDQ	753012	•	•	ī	0	<del>-</del> ;	,	٠	0	0	•	1		0	•	•	1	0	-	0
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BTS Display	753015	•	•	•	o	·	•	•	<del>-</del>	0	•	•	•	6	•	•	•	0	0	6
BTS Display	753018	•	9)	9	(12)	,	,	<del>,</del>	0	(12)	'	•	•	0	•	•	1	0	0	(12)
Dp Pre Clean Tw Pks	700498	1		•	0	•	<u>(6)</u>	3	(12)	(12)	(2)	<u>(ç)</u>	<u>(9)</u>	(19)	<u>(P</u> )	(9)	<u>@</u>	(17)	(36)	(48)
30 pc OS FL w/90 ct	753001	<del>,</del>	·	<del>-</del>	<del>-</del>	•	·	÷	ਰ	ਠ	<del>-</del>	•	<del>-</del>	0	·	-	·	ᇹ	<del>-</del>	<del>-</del>

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Project				I	iğ.				2nd	# <u>#</u>	1999			3rd				€	2nd	
	$\dashv$	Jan	de de	Mar	ğ	Αpr	May	틸	ă	Kalf	3	Aug	Sep	ਰੋ	ë	Nov	ő	ă	Half	Year
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70	700451	•	,	£	£	Ξ	·	•	Ē	(2)		•		6	•	·-	•	-6	0	(2)
ē	700351		•	ı	0	•		•	ō	0	•	•	•	0	•	•	•	6	0	0
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Es invisible w/202 wsh 750	750021	<del>-</del>	,	•	-	•	•	•	0	6	•	<del></del>	•	0	<del>.</del>	'	•	0	0	0
750	750421	•	•	•	0	•	•	,	0	5	٠		•	6	•	•	•	D	0	0
78	750031	•	,	•	0	•	•	<del>-</del>	0	6	•	1	•	0	ī	•	•	6	0	Đ
75	750019	٠	·	•	o	•	<del>-</del>	,	٥	0	٠	•	•	0	•	•	<u> </u>	6	0	0
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	Project				1st			<del>                                     </del>	2nd	1st	Γ			3rd				#	2nd	
	**	Jan	E E	Mar	ă	Apr	May	FID.	ă	포	3	Aug	Sep	ð	ĕ	Nov	200	å	Half	/ear
Strategic Mktng.		232	938	440	1,610	42	167	62	27.1	1,881	-	549	388	848	(201)	188	173	(62)	888	2,767
Sampling Events		o	=	16	17	θ	166	4	176	193	1	0	-	2	-	-	+	3	5	198
sja			1	16		9	166	4	176	193	-		-	2	-	-	-	က	ĸ	198
AAD		-			0				0	0		•		0				6	0	Q
Direct Mail					0				0	0				0			-	- 6	6	Ö
In-Store					0				0	0				0				ō	0	0
Public Relations		175	0	325	900	0	0	10	10	510	0	525	0	525	0	01	148	159	684	1,184
PR Fees		0	0	0	0	0	0	0	0	0	0	0	=	0	ō	Ö	0	٥	6	0
					0				0	0				0				0	0	0
Ketchum	_				0				0	0				0				0	o	0
Sponsorship		175	0	325	500	٥	0	10	10	510	0	525	0	525	0	10	149	159	684	1,194
N Sync Con Tour.		175		350	525				0	525		525		525			149	149	874	
Parent and Child Guidance Center	lance Cent	<b>*</b>			0			10	0	10				0				٥	o	
Amer Academy of Derm	Ę			(25)	(25)				٥	(25)				0		10		10	5	
Relationship Mktng.		0	0	٥	0	Ó	0	٥	٥	٥	٥	0	٥	0	٥	0	٥	0	Ö	
Stratmar		   			0				0	0				0				0	0	
Redl-Mail					0		-	<u>-</u>	0	0				0				0	0	
WCA		1			0		1	1	٥	0	7	1		٥				٥	ō	- 1
Pharmacy/ Managed Care		o	0	0	٥	٥		٥	0	0	0	9		٥	٥	0	٥	٥	٥	- 1
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Misc Cnsmr Evnts		57.	937	66	1,093	36	-	48	82	1,178	0	24	397	421	(292)	45	23	(224)	197	1
News America NIPP credit	٠				0					0		(12)		(12)				0		1
					0 0	<del>.</del>			0 0	0 0	_		_	0				0	0	
 				•	<b>-</b>				<del>5</del> 6	<del>-</del> -			_	ə c		-		<del>-</del>		
Exsportise	•	57			27			8	48	105				ō				- 6		
N'Sync Radio			27.7	4	581				0	581	•			0				-		
N'Sync I (Promo Event)			360	8	<del>2</del>	8	_		37	492		ឌ		22		8		32		
N'Sync II (trade)					0			_	0	0		#	397	411	(202)	~		(280)	12	121
Promotions Agency	_				0				0	0				0		2	ន	8	33	g
Miscellaneous	1	1			5	1	1	1	9	6	1	7	1	=		7		न	<u>-</u>	0

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	Project				1st				2nd	1st				3rd				4th	2nd	
	412	Jan	Feb	Mar	ă	Apr	May	Jun	ŧ	Half	Juf	Aug	Sep	ģ	Ö	Nov	Dec	å	Half	Year
Total Support		88	51	55	194	109	84	57	250	444	37	212	279	528	83	27	105	245	77.3	1,217
Research		82	49	42	173	97	80	43	220	393	33	208	184	426	73	53	84	210	636	1,029
Market Research Studies	es	49	36	(33)	70	76.	52	20	148	218	2	185	31	218	0	31	6	39	257	475
Packaging Eval					0	19	16	16	5	51				0				0	0	5
Rx Audit					0	-			_	_				0				0	0	<del>-</del>
teer & Landle		37		(37)	0	4	7		84	48	-			=				0	-	48
-Edwards-Accor.			8		8				0	8				6				-	0	ଥ
A C Nielsen (misc)		8	19	4	64	n	~	4	<b>D</b>	49	_		<del>го</del>	₹		60	œ	=	42	2
Youth Intelligence					0	12			12	12	_			0				0	-	12
Lebestin.		9			10				0	5				0				0	Þ	5
ASS					C				0	0	•	140		146				0	146	4
Global Research					0		27		27	27		39	28	87		28		28	92	122
Package Design		<b></b>	Ξ	38	88		60	-	7	45	63	N	Ø	8	Ξ		Ŗ	65	92	B
TCI Charges		7	47	37	65	21	22	22	65	130	22	22	22	98	22	22	ន	98	132	262
Experimental Production	nc	٥	0	٥	0	0	O	0	0	O	0	0	122	122	<del>Q</del>	0	٥	<del>\$</del>	162	162
Stability Trial					0				ò	o			5	8				0	<u>8</u>	6
Custom Pharm					٥				o	٥			22	22	38			88	90	8
STR					0				0	0				0	2			2	2	2

Other Support		9	2	13 21	12	4	14	30	51	4	3	82	102	10	4	21	35	137	188	
Sales Aids		2	9	8	19 1	13	E1	27	43	4	3	5	12	8	2	27	37	48	92	
Selling Mtris		2	9	3 1	1	4	13	18	29	4	2	5	11	7	2	24	33	4	73	
Misc. Materials/Migs		2	9	3	11	4	13	18	23	4	2	ıc.	11	7	2	24	33	44	73	
Wearables					0			6	0				٥				0	~	6	
B Columbus								0	0				0			•	0	<del>-</del>	0	
Sales Contests	_	_	0	0	0 0	0	0	0	0	٥	a	0	0	O	٥	0	0	O	٥	
Salesmen					_			0	0				0				0	0	0	
Trade					_			0	0				0				0	0	0	
Dealer Loaders				_	0			0	0				0				0	-	0	
Shelf Management	_				_			0	0				0				0	0	0	
Sales Samples	_	-	0	4	4 0	3	0	3	7	0	1	ō	-	-	0	3	*	ທ	12	
Salesman				4	4	n		m	7		1		-	-		က	4	ıΩ	12	
Menu Program				_	0			0	Đ				0				0	0	0	
Sales Meetings					6	9		9	Ð				0	•			-	Ó	100	
· Other/Cards				<u>-</u>	<del></del>			0	-				0				ô	0	-	
Scrapping	_	0	0		2 9	(8)	0	0	2	ō	0	87	87	2	0	٥	2	89	6	
Returns				2	2 8	6		0	2			87	87	7			2	89	9	
Spend cuts				_	~	•		0	0				O.				ö	0	0	

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	Project				Ħ				2nd	<u>*</u>				37			•	4th	2nd	
	#	Jan	Feb	Mar	Qtr	Apr	May	Jun	Qt	Half	Jul	Aug	Sep	ģ	Öct	Nov	Dec	at T	Half	Year
Other					0				0	8				0				0	0	0
Licensing Fees		-			0				0	6				0				0	0	0
Consulting Fees		4	(4)	2	2	2	0	0	2	4	0	0	2	2	0	2	4	9	8	12
Spectra Marketing				2	2	2			2	4			2	2		2		2	4	60
AM Woodhouse				_	0				0	-5-				0			4	4	4	4
Icon & Landis		4	6		£				-	Ē				6				6	0	Ξ
J Leyden			1		-				0	-				0				0	0	<del>-</del>
Wise Wire					Ó	~			0	-6				0				0	0	0
Legai					0				0	8		•		0				0	0	o
					0				0	0				0				0	0	0
Miscellaneous		0	В		-	0	0	-	-	2	0	0	=	+	0	0	(10)	(10)	(6)	(7)
Newsletter					0				0	0				0				6	0	0
CRPA					0		<del></del>		0	Ö				0		•		0	0	0
Sales Tax		_		-	-	-		-	-				=	-			m	n	4	60
Purchasing Savings					0	+		-	0	0				٥				0	0	•
Prior Year Adjustments	89.				0				0	0				0				0	0	٥
Reclass Other					0			,	0	٥				•			(16)	(16)	(16)	(18)
Stadium Sign					0				0	0				0				¢	0	8
Returns Adj					0				ō	0				0				0	0	0
Other					o				0	0				0			8	В	က	6

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	*	Jan	Feb	Mar	Öţ	Apr	May	Jun	ğ	Half	Jul	Aug	Sep	ð	50	Nov	Dec	ģ	Half	Year
Medical Marketing		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Print Ads					0		-		0	0	-			0	Γ			0	0	0
Direct Mailings					0				-	0				0				0	P	0
Consumer Bkits.					0				0	0				-6				0	0	6
Ad Development					0				٥	0				0				0	0	6
Conventions					0				0	0				0				0	o	0
Selling Literature					0				0	0				0				0	0	Ö
Grants					O				0	0			-	6				0	0	0
Sampling		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Cash Receipts					0				0	0				0				0	0	0
Write-offs					0				0	0				0				0	o	ō
Prime Costs		-	-		0				0	0				6				Ó	0	0
Other Oheads		-	•		0				0	0				0				0	0	0
Kit Cmpnents.				_	0				Đ	0				-				0	0	6
Kit Dev.					0				0	0				6				0	0	0
Detailing					0				ò	0			-	ō	-	·		0	0	0
Prof. P/R					0				0	0			•	6				0	o	6
Market Research			,		0				0	0			_	6				0	0	6
Cilnicals					0				0	0				0		•		0	0	0
Agency					0				0	0				0				0	0	0
Other		0	0	0	0	ō	0	0	0	0	0	٥	0	ō	0	٥	0	0	0	٥
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TRADE SECRET/COMMERCIALLY SENSITIVE

Oxy Brand Spending 1999 Actuals 14-Jan-00 4:47 PM

		Jan			Feb			2 Month Total	
SKU#	Expensed	FMP Credit	Net	Expensed	FMP Credit	Net	Expensed	FMP Credit	Net
Fioorstands							_		
753016	,			6.34	(5,590.00)	(5,583.66)	6.34	<u></u>	<u>an</u>
700251	(28.00)		(58.00)		(136.00)	(136.00)	(58.00)		
700351	(57.00)		(57.00)		(115.00)	(115.00)	(57.00)		(172.00)
700451	•				(261.00)	(261.00)	•	(261.00)	(261.00)
700491	,					•	•	1	ь
700496	,				-	,	,	,	•
750019						,	•	1	•
750020A	,					•	,	,	•
750420A )	,					1	ı	,	•
750030A	•					,	•	ı	•
750021	,					,	,	,	•
750031	•					•	•	ı	,
750208	,					•	,	,	•
750421	•					•	•	ı	Ī
753000	,					•		,	•
753001	,		<del></del>			,	•	,	•
700121			·			•	•		•
753012	163.20		163.20	40.80		40.80	204.00	•	204.00
753013	136.00		136.00	30.60		30.60	166.60	,	166.60
753015	312.80		312.80	78.20		78.20	391.00	,	391.00
753016A			312.80			ı	,	,	312.80
753016			-			ı			•
753017			-			1	1		
Slorage	1,217.81		1,217.81	1,683.84		1,683.84	2,901.65	,	2,901.65
Prisma	•	<del></del>				•		ı	•
Rework	•					•		ı	•
DCS	•		<del></del>			•	,	•	•
RDC Labor	•	•		- <del></del>		,	,		•
Span America	•					,	•	,	,
Geyar						1	•		•
Misc	,	1					•	•	
Total 6712.1			2,027.61			(4,262.22)			(2,234.61)
Components									
Henschel Steinau			,		,	•	•	,	•
DCS			,			,	•	•	•



TRADE SECRET/COMMERCIALLY SFNSITIVF

Oxy
Brand Spending
1999 Actuals

		Jan			Feb			2 Month Total	
SKU#	Expensed	FMP Credit	Net	Expensed	FMP Credit	Net	Expensed	FMP Credit	Net
Floorstands									
Prisma	•								
RDC Labor						•			
Inbound Freight			<del></del>						
Pkg Specialist			,			•	•	•	•
Geyer	•		•			į	•	•	•
ADC	,			79,824.25		79,824.25	79,824.25	,	79,824.25
Garber	326.37		326.37			•	326.37	•	326,37
Total 6712.3/4			326.37		1 1	79,824.25			80,150.62
Pallets									
SE RDC			•			•	•	1	ı
NE RDC						•	•	•	٠
WCRDC			•			•	•	•	•
Total 6712.9			•			•	-		•
		<u></u>			11				
Total Displaye		<u>.l.</u>	2 353 98			75 562 03			77 916.01
l oral Dispirays		<u></u>	2,220.30	_		0,202,01	_		200.010

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	#	Jan	å	Mar	ð	Apr M	May Jun	╌┤	Half	Jac.	Aug	Sep	å	ö	Nov	Dec	ä	Half	Year
Menu Details		•	•	0	0	0	0	o	0				٥		0	0	٥	0	•
Couponing		0	0	0	0	0	0	0	0				0		0	0	٥	이	0
1999 Coupon Events		0	0	0	0	0	0	0	0		0 0	0	0	0	0	0	0	0	0
Various Coupon Events		0	0	0	0	0	0	0					a		0	О	0	Đ	0
Redemption					0								٥				0	0	0
\$1.50 on 2 In-Ad		0	0	٥	0	o	٥	0			0	0	0	0	o	0	0	0	0
Redemption					0					0			0				0	0	0
Redemption					0				0	_	·		0				0	6	0
\$1.00 IRC's		٥	0	0	0	0	0	0			0	0	٥	0	0	0	0	٥	0
Redemption					6					-5			0				0	0	0
Artwork					0		-	· .		-			0				0	Ô	0
\$1.00 Take Care Cpn		0	0	0	ô	0	0	0			0 0	0	0	0	0	0	0	0	0
Redemption					0	-							0				0	0	0
Redemption					ó					~			0				0	٥	o
\$2.00 Retailer In-Ad		0	0	0	0	0	0	0			0	0	0	0	О	0	0	٥	0
Redemption					0				0	0			0				0	0	0
Redemption					0			•		6			6				0	0	0
Redemption					0								0				0	0	0
Retailer In-Ad		ō	٥	0	ē	0	D	٥			0	٥	٥	٥	0	0	9	٥	٥
Redemp \$1.25					6					0			0			•	0	6	0
Redemp \$1.50			-		0								0		-		0	8	0
Miscellaneous Coupons		٥	0	0	9	0	٥	0		0	0	٥	O	o	0	٥	٥	٥	0
Artwork					0	_	1			-			٥				1	0	0
Prior Year Coupons		0	0	0	0	0	0	6		0	0	٥	٥	ō	٥	٥	0	٥	٩
Redemption					ō		-			6			Ó				٥	٥	٥
Refund Offers		0	0	o	-	0	0	0					Ö		٥	0	٥	٥	
1999 Refund Offers		0	0	0	0	0	0	9		0 0	0	٥	0	•	<u> </u>	٥	٥	٥	0
Refund Offer		0	0	Õ	ō	0	0	ō					0	1	0	0	٥	٥	Q
Redemption	 			_	0					-			0				6	0	0
Distribution					-		<del></del>		-	-			0				٥	0	0
Artwork		+	+	+	9	+	+	$\frac{1}{1}$					0		1	†	1	0	٥
Prior Year Refund		9	0	0	9	0	0	0		°	٥	0	0	٥	0	٥	٥	0	٥
Redemption		-	-	_	0	$\dashv$	-	_	_				8				٥	°	٥
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	3	ų, d	Mar	ž 8	Ą	May	un C	ą.	Half	Jul	Avg	Sep	afr	ö	Nov	Dec	à	žį.	Year
Section 4																			
Buigniandy	;	8	ž	258	498	135	769	1,808	2,671	622	1,390	1,932	3,944	212	188	88	76	4,735	7,406
Media		3	; ;	3 6	2	Ê	961	(52)	(08)	(22)	[48]	(68)	(139)	(17)	(9)	8	(54)	(163)	(253)
Media Savings	€	<u>e</u>	( <del>)</del>	<u> </u>	<u> </u>	5	1	1		: [		. [			7	8	113	325	694
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# MARKET RESEARCH SUMMARY

FORM MR6





RAND: OXY

BUDGET NUMBER: 1-560310-6725-1

COUNTRY: USA

MRD #: 02-0740

BRIEF DATE: 12/20/02

SUMMARY DATE: 5/7/03

## Oxy Tracking Study - Wave IV

### BACKGROUND:

14 Months

A similar polling study has been conducted three times over the past three years (Feb. '00, July '00, and Nov. '01) to determine changes in teen current product users' attitudes (12-17) about Oxy as well as the competitive set. The plan has been to conduct this study on a yearly basis to continually track shifts in consumer perception as a result of marketing efforts. In the past, the study tracked changes in age breaks of the 12-14 and 15-17 age groups, as perceptions in these groups change with maturity and interests. Additionally, the study has captured attitudes of both boys and girls as interests can differ among those groups as well. Attitudes of adults (18 and older - both men and women who are acne sufferers) have never been tracked in this study, but will be included here as the brand team believes that, while current advertising focused on capturing the teen target is/has been successful, consumption volume coming from the older audience is shrinking given the fact that they are outside of the advertising target.

## **OBJECTIVES:**

To determine overall changes of acne sufferers in attitude/perception of teens (two age splits of boys and girls - 12-14 and 15-17) and adults (18 and older) toward the the Oxy brand and competitive set.

# **ACTION STANDARDS:**

The results will be used to optimize the positioning for Oxy among teens and will also be used to shape future advertising and target decisions.

#### KEY OUESTIONS/ ISSUES TO EXPLORE:

For each demographic (for Oxy brand and competition) the study should:

#### **ATTITUDES**

- Examine differences in attitudes, perceptions and opinions of Oxy and competitor users/non-users
- Evaluate opinions about descriptions of Oxy
- Find how many (and which) products respondents have heard of
- Appraise product efficacy
- Survey which brand is used most often overall
- From above point, survey which variant of that particular brand is used most often
- Assess which brand is most likely to be used to stop pimples before they start
- Assess which brand is most likely to be used when breakouts occur

### USAGE (of treatments/pads /washes)

- Determine what part of the face/skin the respondent uses products
- Determine when repondents use product after soap or in place of soap
- Evaluate if product is used during the day or only at night
- Find out if treatments/pads are used only when breakouts occur
- Measure whether or not product is used to prevent breakouts
- Determine which products are used in conjunction with others
- If used every day, appraise how frequently products are used

## PURCHASE INFLUENCE

- Capture how often brand/competitive products are used
- Capture frequency of purchase of acne products
- Measure when respondents are most likely to use skin care products
- Poll for events/times of year respondednts are most socially concious/concerned about pimples
- Evaluate how frequently Oxy is used

## DEMOGRAPHIC INSIGHTS

- Establish seriousness of acne
- Measure who is most heavily using pads, and what pad brand
- Measure who is most heavily using treatments, and what treatment brand
- Determine highest level of education

#### ADVERTISING

- Calculate aided and unaided awareness of selected advertising
- Estimate source of advertising awareness
- Measure main message communication
- Find out how likely respondents would be willing to buy Oxy
- Calculate product attribute rankings
- Provide verbatim responses about Oxy

#### MISCELLANEOUS

Determine how many hours per week respondents spent on the Internet

Circulation:

TRADE

SENSITIVE

CRET/COMMERCIALLY

D. Sefer, C. Saltmar, T. Gallick, D. Singer, S. C. Edwards, M. Prus, G. L. Koehler

(ARY:

Based on this latest wave of tracking, it appears that Oxy advertising is intrusive and gaining awareness, but not motivating teen users to use Oxy or increase their intent to use Oxy. The oxygen message is clearly getting through to teens. However, the end benefits associated with Oxy (e.g., treats pimples, prevents pimples, unclogs pores, etc.) are not increasing teens' perceptions of Oxy. As such, it does not appear that teens are linking the oxygen message to an end benefit.

## DETAILED FINDINGS:

# **Among Teen Acne Product Users**

- Advertising Awareness At 69%, total advertising awareness for Oxy has increased significantly from 57% in the November, 2001 wave. On a trended basis, Neutrogena and Clean & Clear ad awareness has increased while Clearasil, Stridex, and Pro-Active are basically flat.
- 2. Usage And Intent To Use Total Oxy brand usage has declined to 40% of teen category users from 49% in November, 2001. Intent to use Oxy to treat or prevent declined slightly to about 30% each from 33% each in November, 2001. On a trended basis, Clearasil and Stridex are generally unchanged while Neutrogena, Clean & Clear, and Pro-Active are experiencing increases in usage and usage intent. All of the brands are generally unchanged on total favorability with the exception of Neutrogena which experienced an increase.
- 3. Attribute Rankings Attribute rankings for Oxy have remained relatively flat with the exception of "oxygen" related attributes which increased significantly from November, 2001: Lets oxygen in to stop acne bacteria 57% to 77% and Works with oxygen to fight pimples 58% to 83%.

# INDICATED ACTION\*:

Brand messaging must use oxygen as a means to an end – a point of difference that leads to efficacy. Past polls showed improvement in teens' attribute rankings of both Oxy's oxygen message as well as efficacy, while this poll only showed an increase in the oxygen message. Our new claim of "Oxy pads kill over 99% of bacteria within 30 seconds – and they keep working all day" should increase the efficacy perception while continuing to utilize the oxygen point of difference, and will be introduced into Print in May '03 and TV in June '03.

# **METHODOLOGY:**

This study was conducted via telephone among 400 teen acne sufferers (12-17) and 200 adult acne sufferers (18+) as identified in the supplier's PatientFacts household database.

<u>FATISTICAL</u> FESTING LEVEL:

95% confidence level

CONTACT/AGENCY:

Ted Davies/Synovate

COST:

\$35,300

TIMING:

Telephone interviews - January 27-February 5, 2003

WRITTEN BY:

G. L. Koehler

\* To Be Completed By Brand Manager/Initiator 02-0740.doc

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